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**Highland Capital
Management, L.P.**
(A Delaware Limited Partnership)
**Consolidated Financial Statements
With Report of Independent Auditors
December 31, 2008**

Highland Capital Management, L.P.
Contents
December 31, 2008

	Page
Report of Independent Auditors	1
Audited Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Partners' Capital	4
Consolidated Statement of Cash Flows.....	5-6
Notes to Consolidated Financial Statements	7-51
Supplemental Information	
Unconsolidated Balance Sheet (unaudited).....	52
Income Statement (Unaudited)	53

Report of Independent Auditors

To the General and Limited Partners of
Highland Capital Management, L.P

In our opinion, the accompanying consolidated balance sheet and the related consolidated statements of income, of changes in partners' capital and of cash flows (hereinafter referred to as the "financial statements") present fairly, in all material respects, the consolidated financial position of Highland Capital Management, L.P. (the "Partnership") and its subsidiaries at December 31, 2008, and the consolidated results of their operations and their consolidated cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The supplemental unconsolidated balance sheet and unconsolidated statement of income are presented for purposes of additional information, and are not a required part of the consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audits of the consolidated financial statements and, in our opinion, is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

A handwritten signature in black ink that reads "PricewaterhouseCoopers LLP". The signature is written in a cursive, flowing style.

July 21, 2009

Highland Capital Management, L.P.
Consolidated Balance Sheet
December 31, 2008

(in thousands of dollars)

Assets

Cash and cash equivalents	\$	53,230
Restricted cash		358,877
Investments, at fair value (cost \$5,457,411)		2,338,759
Unrealized gains on derivative contracts, at fair value (proceeds \$3,887)		8,974
Equity method investees		4,977
Management and incentive fees receivable		20,120
Due from brokers		145,311
Other assets		86,708
Deferred incentive fees receivable		25,997
Purchased investment management contracts		24,000
Goodwill and other intangible assets, net		25,474
Fixed assets and leasehold improvements, net of accumulated depreciation of \$11,578		131,555
Total assets	\$	<u>3,223,982</u>

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	18,498
Securities sold, not yet purchased, at fair value (proceeds \$60,094)		71,831
Unrealized losses on derivative contracts at fair value (proceeds \$3,319)		261,815
Obligations to return capital		161,882
Due to brokers		464,252
Due to brokers for securities purchased not yet settled		181,938
Accrued and other liabilities		191,880
Secured borrowing		127,868
Debt and notes payable		397,822
Long-term incentive plan		6,945
Total liabilities		<u>1,884,731</u>
Minority interest		1,338,461
Commitments (Note 13)		
Partners' capital		<u>790</u>
Total liabilities, minority interest and partners' capital	\$	<u>3,223,982</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Income
Year Ended December 31, 2008

(in thousands of dollars)

Revenue

Management fees	\$ 204,917
Incentive fees/allocations	870
Interest and investment income	424,322
Other income	46,144
Total revenue	<u>676,253</u>

Expenses

Compensation and benefits	4,029
Professional fees	40,475
Investment and research consulting	2,384
Amortization and depreciation	12,026
Interest expense	144,244
Net depreciation on deferred incentive fees	150,281
Other expenses	87,150
Total expenses	<u>440,589</u>
Net income before investment transactions	235,664

Realized and unrealized loss from investment transactions

Net realized loss	(2,110,841)
Net change in unrealized loss	(3,070,895)
Total realized and unrealized loss from investment transactions	<u>(5,181,736)</u>

Realized and unrealized loss from equity method investees

Net realized loss from equity method investees	(128,462)
Net unrealized loss from equity method investees	(1,778)
Total realized and unrealized loss from equity method investees	<u>(130,240)</u>
Net loss before minority interest in net income of consolidated entities	(5,076,312)
Minority interest in net loss of consolidated entities	4,469,051
Net loss	<u>\$ (607,261)</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2008

<i>(in thousands of dollars)</i>	General Partner	Limited Partners	Total
Partners' capital at December 31, 2007	\$ 6,466	\$ 666,958	\$ 673,424
Net loss	(5,416)	(601,845)	(607,261)
Partner distributions	(533)	(59,232)	(59,765)
Other comprehensive income (loss)	(50)	(5,558)	(5,608)
Partners' capital at December 31, 2008	<u>\$ 467</u>	<u>\$ 323</u>	<u>\$ 790</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Cash Flows
Year Ended December 31, 2008

(in thousands of dollars)

Cash flows from operating activities

Net loss	\$ (607,261)
Adjustment to reconcile net loss to cash and cash equivalents provided by operating activities	
Cash provided by operating activities:	
Net realized loss on investments and derivative contracts	2,110,841
Net unrealized loss on investments and derivative contracts	3,070,895
Amortization of equity distributions on CLOs	54,586
Net realized loss from equity method investees	128,462
Net unrealized loss from equity method investees	1,778
Minority interest in net loss of consolidated entities	(4,469,051)
Depreciation and amortization	12,026
Changes in assets and liabilities	
Management and incentive fees receivable	210
Deferred incentive fees	150,281
Investment management contracts	5,662
Other assets	118,535
Due from brokers	1,970,423
Accounts payable	11,521
Accrued and other liabilities	(100,327)
Due to brokers for unsettled trades	(59,527)
Long-term incentive plan	(38,111)
Obligations to return collateral	161,882
Net cash provided by operating activities	<u>2,522,825</u>

Cash flows from investing activities

Restricted cash	921,167
Purchase of fixed assets and leasehold improvements, net	5,498
Purchases of investments	(8,624,670)
Proceeds from dispositions of investments	11,044,838
Purchases of investments to cover securities sold, not yet purchased	(12,920,295)
Proceeds from securities sold, not yet purchased	<u>10,748,348</u>
Net cash provided by investing activities	<u>1,174,886</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Cash Flows
Year Ended December 31, 2008

(in thousands of dollars)

Cash flows from financing activities

Payments on long-term debt	(63,574)
Proceeds from revolving debt and promissory notes	115,649
Proceeds from affiliate loans	48,448
Net payments on secured borrowings	(3,306,382)
Change in due to brokers	(944,702)
Capital contributions from minority interest investors of consolidated entities	907,113
Capital withdrawals from minority interest investors of consolidated entities	(783,503)
Partner distributions	(52,265)
Net cash used in financing activities	(4,079,216)
Net decrease in cash and cash equivalents	(381,506)

Cash and cash equivalents

Beginning of year	434,736
End of year	\$ 53,230

Supplemental disclosure of cash flow information

Interest paid during the year	\$ 65,035
Non-cash distributions to partners	7,500

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment advisor under the Investment Advisors Act of 1940 that manages collateralized loan obligations ("CLOs"), registered investment companies ("RICs"), hedge funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is 100% owned by senior management of the Partnership.

As of December 31, 2008, the Partnership provided investment advisory services in accordance with management agreements for thirty CLOs, sixteen RICs, one warehouse transaction, five separate accounts, one master limited partnership, and twelve hedge fund structures, with total assets under management of approximately \$28.5 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in the preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("US GAAP") and are stated in United States dollars.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment of 50% or more and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership consolidates all VIEs for which it is considered to be the primary beneficiary, pursuant to Financial Accounting Standards Board ("FASB") Interpretation No. 46 (revised December 2003), *Consolidation of Variable Interest Entities — an interpretation of ARB No. 51, as revised* ("FIN 46R"). FIN 46R clarifies the consolidation guidance for entities in which the equity investors do not have the characteristics of a controlling financial interest or do not have sufficient equity at risk for the entity to finance activities without additional subordinated financial support from other parties. These entities are defined as VIEs. In general, FIN 46R requires an enterprise to consolidate a VIE when the enterprise holds a variable interest in the VIE and is deemed to be the primary beneficiary of the VIE. An enterprise is the primary beneficiary if it absorbs a majority of the VIEs expected losses, receives a majority of the VIEs expected residual returns, or both.

The Partnership consolidates non-VIEs in which it as the general partner has control over significant operating, financial and investing decisions of the entity, pursuant to the Emerging Issues Task Force ("EITF") 04-5, *Whether a General Partner, or the General Partners as a Group, Controls a Limited Partnership or Similar Entity When the Limited Partners Have Certain Rights*.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Consolidation of Non-Variable Interest Entities

Under EITF 04-5, the Partnership consolidates the following non-VIEs (collectively referred to as the "Consolidated Investment Funds"). The Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations. :

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005;
- Highland Credit Opportunities CDO, L.P. ("Credit Opportunities Master"), a Delaware limited partnership that commenced operations on December 29, 2005;
- Highland Select Equity Fund, L.P. ("Select Equity Fund"), a Delaware limited partnership that commenced operations on January 1, 2002;
- Highland Equity Focus Fund, L.P. ("Equity Focus Fund"), a Delaware limited partnership that commenced operations on September 1, 2002;
- Highland Real Estate Fund 2002-A, L.P. ("Real Estate Fund"), a Delaware limited partnership that commenced operation on April 1, 2002;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Prospect Management Advisors, L.P. ("PMA"), a Delaware limited partnership that commenced operations on November 22, 2004 (not an investment fund);
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore") a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore") a Delaware limited partnership that commenced operations on September 2, 2008; and
- Highland Restoration Capital Partners Master, L.P. ("Restoration Master") a Delaware limited partnership that began commenced on September 2, 2008.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Consolidation of Variable Interest Entities

Under FIN 46R the Partnership consolidated the following VIEs as it is the primary beneficiary:

- Highland Financial Corporation ("HFC"), a company incorporated on February 28, 2006 under the laws of the state of Delaware;
- Highland Financial Real Estate Corporation ("HFREC"), a company incorporated on March 15, 2006 under the laws of the state of Maryland; and
- HCM Trident (Delaware) Corporation ("HCM Trident"), a company incorporated on July 3, 2007 under the laws of the state of Delaware.

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Management Europe, Ltd. ("Highland Europe"), a company organized in the United Kingdom and purchased by the Partnership on April 6, 2005;
- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 87.5% interest in HySky Communications, LLC, a Delaware limited liability company that commenced operations on December 22, 2006; and
- 84.5% interest in HE Capital, LLC, a Delaware limited liability company that commenced operations on March 22, 2007.

All significant interpartnership and intercompany accounts and transactions have been eliminated in consolidation of all of the aforementioned consolidated entities. All the Consolidated Investment Funds are, for US GAAP purposes, investment companies under the AICPA Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds pursuant to EITF No. 85-12 *Retention of Specialized Accounting for Investments in Consolidation*.

The Partnership and its majority owned entities have a 29.3% interest in an affiliate, Highland Financial Partners, L.P. ("HFP"), which is considered a VIE. The Partnership and its consolidated entities have a 48.11% interest in HFP. The Partnership is not the primary beneficiary, and the financial results for HFP have not been consolidated, but have been accounted for using the equity method of accounting whereby it records its share of the underlying income or loss of HFP.

Investment Transactions

Investment transactions are recorded on a trade date basis. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Fair Value Measurement

Effective January 1, 2008, the Partnership and its consolidated entities adopted the provisions of Statement of Financial Accounting Standards ("SFAS") No. 157, *Fair Value Measurements*, for the financial assets and liabilities recorded at fair value on the Consolidated Statement of Assets, Liabilities and Partners' Capital.

SFAS No. 157 defines fair value as the price an entity would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants as of the measurement date. The standard requires fair value measurement techniques to reflect the assumptions market participants would use in pricing an asset or liability and, where possible, to maximize the use of observable inputs and minimize the use of unobservable inputs. It also establishes the following hierarchy that prioritizes the valuation inputs into three broad levels:

- Level 1 – Valuation based on quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Investment Funds have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on models in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure the fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Investment Funds use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being re-classified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates.

Whenever possible, the Partnership and its Consolidated Investment Funds use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Investment Funds develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

As of December 31, 2008, the Partnership and its consolidated entities investments consisted of floating rate syndicated bank loans, high yield corporate bonds, CLO securities, private placements, private placement real estate debt and equity, life settlement contracts and common and preferred equity securities. In addition, the consolidated entities are parties to various credit default swaps. The majority of these financial instruments are not listed on national securities exchanges, and management is required to use significant judgment to estimate their values.

The fair value of the loans, corporate bonds and CLO securities are generally based on quotes received from brokers or independent pricing services. Due to the recent disruption in the credit markets, an increasing number of these quotes are derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades. The policy of the Partnership and its consolidated subsidiaries is to classify loans and bonds that are priced in this manner as Level 3 assets because the markets in which they trade are not active and the inputs used by the brokers and pricing services are not readily observable. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

The consolidated entities private placement real estate investments include equity interests in limited liability companies and debt issued by entities that invest in commercial real estate. The fair value of these investments is based on internal models developed by the Partnership. The significant inputs to the models include cash flow projections for the underlying properties and appraisals performed by independent valuation firms. Since these inputs are not readily observable, the investments are classified as Level 3 assets.

Common and preferred equity securities traded on national exchanges are valued at their closing prices as of December 31, 2008. These securities are classified as Level 1 assets. The consolidated entities also hold certain equity securities for which no active market exists. The value of these securities, which are classified as Level 3 assets, is based on a combination of broker quotes and internal valuation models.

Life settlement contracts are valued using mortality tables and interest rate assumptions that are deemed appropriate for the demographic characteristics of the parties insured under the policies. Since these inputs are not readily observable, they are classified as Level 3 assets.

The fair value of credit default swaps is based on quotes received from an independent pricing service. The inputs used to derive the quotes are not readily observable and are therefore classified as Level 3.

Refer to Note 5 for the disclosures required by SFAS No. 157.

Management and Incentive Fee/Allocation Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2008, the Partnership and its consolidated entities recognized management and incentive fees and incentive allocations of approximately \$204.9 million, and \$0.9 million, respectively. The Partnership recognized approximately \$150.3 million of depreciation on incentive fees previously deferred under Sec. 409(A) of the Internal Revenue Code. This has been presented in *Net depreciation on deferred incentive fees* in the consolidated statement of income.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Dividends, Interest and Expense Recognition

Dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. Operating expenses, including interest on securities sold short, not yet purchased are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes, which have been recognized in accordance with SFAS No. 109, *Accounting for Income Taxes*.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. The stated objectives of SFAS No. 109 are to recognize (a) the amount of taxes payable or refundable for the current year and (b) deferred tax liabilities and assets for the future tax consequences of events that have been recognized in financial statements or filed tax returns. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. The following subsidiaries are subject to these provisions: Highland Europe, HFC and HFREC. Deferred tax assets of approximately \$0.2 million are presented in *Other assets* in the consolidated balance sheet. Federal, state and city taxes for the Partnership and its consolidated corporate subsidiaries of approximately \$20,000 are presented in *Other expense* in the consolidated statement of income.

The Consolidated Investments Funds are not subject to federal income taxes and therefore no provision has been made in the accompanying consolidated financial statements.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Foreign cash of \$1.8 million is included in the cash and cash equivalents on the consolidated balance sheet.

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Total Return Swaps

A total return swap agreement is a two-party contract under which an agreement is made to exchange returns from predetermined investments or instruments. The gross returns to be exchanged or "swapped" between the parties are calculated based on a "notional amount," which is valued monthly according to the valuation policy mentioned above to determine each party's obligation under the contract.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Risks could arise from entering into swap agreements from the potential inability of counterparties to meet the terms of their contracts, and from the potential inability to enter into a closing contract. The Partnership's Consolidated Investment Funds recognize all cash flows received (paid) or receivable (payable) from swap transactions on a net basis as realized or unrealized gains or losses in the consolidated statement of income. The Partnership and the Consolidated Investment Funds are charged a finance cost by counterparties with respect to each agreement. The finance cost is reported as part of the realized or unrealized gains or losses.

Credit Default Swaps

As discussed in Note 7, under a credit default swap agreement two parties agree to transfer the credit exposure of an asset between one another. The seller of the swap guarantees the credit worthiness of a specific instrument by agreeing to pay the buying party a specific amount (generally par value) in the event that the instrument defaults.

At December 31, 2008, the Partnership's Consolidated Investment Funds were party to multiple credit default swaps in which it acts as the guaranteeing party. In the event that any of the underlying instruments default prior to the expiration of the agreements, the Consolidated Investment Funds are obligated to pay the swap counterparty the par value of the specific instrument. The Consolidated Investment Funds collect a fee based on the size of the underlying positions which are treated as realized gains once received. The difference between the current market value of the swaps and the original price of the swap is reported as an unrealized gain or loss.

At December 31, 2008, the Partnership's Consolidated Investment Funds were party to several credit default swaps in which it was the guaranteed party. In the event that any of the instruments underlying the various swap agreements default before the swap agreement expires, the Partnership and the Consolidated Investment Funds will be made whole by the swap counterparty. The Partnership and the Consolidated Investment Funds treat the fees paid as a realized loss once paid. The difference between the current market value of the swaps and the original price of the swap is reported as an unrealized gain or loss.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand. Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash or securities. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender.

Securities Loaned

The Partnership's Consolidated Investment Funds may lend securities to their financing counterparties for margin. The lending entity receives the interest associated with the securities loaned. The loans are secured by the fair value of the securities. Gains or losses in the fair value of the securities loaned that occur during the term of the loan will be for the account of the lender. The lender has the right under the lending agreement to recover the securities from the prime brokers on demand. The lender pays a fee to the broker for the cash collateral received. This is accounted for as interest expense. A credit risk exists to the lender under this type of transaction to the extent that the counterparty defaults on its obligation to return the securities loaned.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Options

The Partnership's Consolidated Investment Funds purchase and sell call and put options on equity securities and equity indices as part of its overall portfolio management strategies. Purchased call or put options may be used to obtain economic exposure equivalent to a long or short position, respectively, or to hedge existing or anticipates portfolio positions. Certain options contracts are index options, under which amounts due or payable upon exercise are settled entirely in cash based on the difference between the value of the index at maturity and its contract (or strike) value. The potential risk of loss for purchased options is limited to the premium paid.

The premium paid for the purchase of an option is included in the consolidated balance sheet as an investment and subsequently marked-to-market to reflect the current value of the option. If an option expires on the stipulated expiration date, the Consolidated Investment Funds realize a loss equal to the cost of the option. If the Consolidated Investment Funds enter into a closing sale transaction, the Consolidated Investment Funds realize a gain or loss, depending on whether the proceeds from the closing sale transaction are greater or less than the cost of the option. If the Consolidated Investment Funds exercise a call option, the cost of the securities acquired upon exercise is increased by the premium paid to buy the call. If the Consolidated Investment Funds exercise a put option, it realizes a gain or loss from the sale of the underlying security and the proceeds from such sale are decreased by the premium originally paid.

Margin Transactions

In order to obtain more investable cash, the Partnership and its subsidiaries may use various forms of leverage including purchasing securities on margin. Such leverage may allow the Partnership and its subsidiaries to increase net assets at a greater rate during increasing markets, but also may lead to a more rapid decrease in net assets in a declining market. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2008. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. Withdrawals payable may be treated as capital for purposes of allocations of gains/losses pursuant to the partnerships' governing documents. At December 31, 2008, the Partnership and its consolidated entities had withdrawals payable of \$16,825. Refer to Note 16.

Use of Estimates

The preparation of the consolidated financial statements in conformity with US GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Foreign Currency Transactions

The Partnership's subsidiary Highland Europe uses British Pounds as its functional currency and enters into transactions in multiple foreign currencies. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2008. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the consolidated statement of income.

The Consolidated Investment Funds do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the Net realized and unrealized gains or loss from investments.

Financial Instruments

The Partnership and its consolidated entities determine fair value of financial instruments as required by SFAS No. 107, *Disclosures About Fair Values of Financial Instruments*. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Derivative Financial Instruments

During 2008, the Partnership was a party to a total return swap agreement. In addition, the Partnership engaged in purchases and sales (including "short sales") of exchange traded commodities and the short sale of subprime backed collateralized mortgage obligations through a purchase of a credit default swap. The Partnership has not designated any derivative transactions as accounting hedges, and, consequently, has not applied hedge accounting treatment under SFAS No. 133, *Accounting for Derivative Instruments and Hedging Activities*, as amended and interpreted.

As discussed in more detail in Note 6, all realized gains or losses related to the Partnership's total return swap, credit default swap and commodity purchases and sales are recorded in *Net realized loss on investment transactions*. The cash flows associated with derivative transactions are classified as investing in the consolidated statement of cash flows.

As of December 31, 2008, the Partnership was not a party to a derivative transaction.

Life Settlement Contracts

Two of the Partnership's Consolidated Investment Funds invest in life settlement contracts (the "Policies") and account for them using the fair value method in accordance with FASB Staff Position FTB85-4-1, *Accounting for Life Settlement Contracts by Third-Party Investors*. The Policies are reflected as a component of "Investments, at fair value" in the Consolidated Statement of Assets, Liabilities and Partners' capital. Realized and unrealized gains (losses) on the Policies are reflected in the Consolidated Statement of Income. Cash flows used to purchase the Policies are reflected as a component of "Purchases of Investments" in the Consolidated Statement of Cash Flows.

The Consolidated Investment Funds were invested in 138 Policies at December 31, 2008 with a total face value of approximately \$1,216 million.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Goodwill and Other Intangible Assets

The Partnership purchased Highland Europe on April 6, 2005. Goodwill represents the amount paid in excess of the fair value of the assets of Highland Europe at the date of acquisition. No goodwill impairments existed as of December 31, 2008.

The Partnership has obtained the rights to the management contracts of certain RICs it manages by acquiring the underlying contracts from the predecessor investment manager. In accordance with SFAS No. 142, *Goodwill and Other Intangible Assets*, the Partnership performs an impairment test on the purchased investment contracts on an annual basis. Any depreciation in the value of the purchased investment management contracts are accounted for in the year when it occurs. The carrying values of the purchased investment contracts are not adjusted for appreciation. During 2008, two RICs were reorganized into a fund managed by the Partnership. As more fully described in Note 15, the carrying value of these purchased management contracts were written off at that time. For the remaining contracts, there was no impairment.

The goodwill and purchased investment management contracts are indefinite-lived assets and are not amortized.

During 2007, the underlying companies consolidated by HFREC purchased rental property (the "Project"). The Projects' purchase prices were allocated to the fair value of tangible and intangible assets and liabilities acquired with the purchases. Lease intangibles represent the measurement of certain intangibles associated with operating leases.

The lease intangible components are the estimated values of 1) leasing commissions (prepaid origination costs), 2) in-place leases, and 3) tenant/customer relationships. Leasing commissions and in-place leases represent the value associated with "cost avoidance" of acquiring in-place leases and are computed as the estimated loss of revenue, net of costs incurred for the period required to lease the "assumed vacant" property to the occupancy level when purchased. These amounts are amortized using the straight-line method over the remaining term of the lease of 2.5 years and are included in depreciation and amortization. Tenant relationships represent the present value of the anticipated renewals of in-place leases, adjusted for the probability of the renewals. The value of tenant relationships is amortized using the straight-line method over the average renewal term of the lease of 7 years and is included in depreciation and amortization. Refer to Note 15.

Recently Issued Accounting Standards & Interpretations

In September 2008, the Financial Accounting Standards Board ("FASB") issued FSP FAS 133-1 and FIN 45-4, *Disclosures about Credit Derivatives and Certain Guarantees: An Amendment of FASB Statement No. 133 and FASB Interpretation No. 45; and Clarification of the Effective Date of FASB Statement No. 161*. FSP FAS 133-1 and FIN 45-4 requires enhanced disclosures about credit derivatives and guarantees and amends FIN 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees of Indebtedness of Others* to exclude derivatives instruments accounted for at fair value under SFAS 133. The Consolidated Investment Funds adopted FSP FAS 133-1 and FIN 45-4 as of December 31, 2008. Since FSP FAS 133-1 and FIN 45-4 only requires additional disclosures concerning credit derivatives and guarantees, it did not have any effect on the Consolidated Investment Fund's financial position, results of operations or cash flows. Refer to Note 7 for the disclosures required by FSP FAS 133-1 and FIN 45-4.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

In December 2008, the FASB issued FIN 48-3, Effective Date of FASB Interpretation No. 48 for Certain Nonpublic Enterprises ("FSP 48-3"), which deferred the effective date of FASB Interpretation No. 48, Accounting for Uncertainty in Income Taxes, an Interpretation of FASB Statement No. 109 ("FIN 48"). Under FSP 48-3, in the absence of early adoption, FIN 48 will become effective for the Partnership and its Consolidated Investment Funds at December 31, 2009. Management has elected to take advantage of the deferral and will continue to accrue for liabilities relating to uncertain tax positions only when such liabilities are probably and estimable. Based on its continued analysis, management has determined that adoption of FIN 48 will not have a material impact to the financial statements. However, management's conclusions regarding FIN 48 may be subject to review and adjustment at a later date based on ongoing analyses of tax laws, regulation and interpretations thereof and other factors.

FIN 48 requires management to determine whether a tax position is more likely than not to be sustained upon examination by the applicable taxing authority, including resolution of any related appeals or litigation processes, based on the technical merits of the position. The tax benefit to be recognized is measured as the largest amount of benefit that is greater than 50% likely of being realized upon ultimate settlement which could result in recording a tax liability that would reduce partners' capital. FIN 48 must be applied to all existing tax positions upon initial adoption and the cumulative effect, if any, is to be reported as an adjustment to the beginning balance of partners' capital upon adoption.

In February 2007, the FASB released SFAS No. 159, *The Fair Value Option for Financial Assets and Financial Liabilities — Including an amendment of FASB Statement No. 115*, or SFAS 159. This statement permits entities to choose to measure many financial instruments and certain other items at fair value. SFAS 159 may be adopted and the fair value option may be elected in the first quarter of 2008. The Partnership has elected to adopt this statement and evaluates securities on an instrument by instrument basis.

In December 2007, the FASB issued SFAS No. 160, *Accounting for Non-controlling Interests*, or SFAS 160. SFAS 160 clarifies the classification of minority interests in the consolidated balance sheet and statement of income. This Statement is effective for fiscal years beginning on or after December 15, 2008. Under SFAS 160, the ownership of consolidated subsidiaries by other consolidated subsidiaries will be presented separately in the equity section of the consolidated balance sheet. Also, upon the deconsolidation of any subsidiary, the retained equity investment will be measured at fair value. The Partnership has not yet determined the impact, if any, that the implementation of SFAS No. 157 would have on our consolidated results of operations or financial condition.

In December 2007, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 141 (revised 2007), *Business Combinations* ("SFAS 141(R)"). SFAS 141(R) requires assets acquired, liabilities assumed, contractual contingencies and contingent consideration to be measured at their fair values at the acquisition date. In addition, SFAS 141(R) requires subsequent adjustments to any acquisition-related tax reserves to be recognized in net income rather than as an adjustment to the purchase price. SFAS 141(R) is effective for business combinations completed in periods beginning on or after December 15, 2008. The Partnership has not yet determined the impact, if any, that the implementation of SFAS No. 157 would have on our consolidated results of operations or financial condition.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

In October 2008, the Financial Accounting Standards Board ("FASB") issued Staff Position 157-3, *Determining the Fair Value of a Financial Asset in a Market That Is Not Active*, ("FSP 157-3") which clarifies the application of SFAS No. 157, *Fair Value Measurements*, ("SFAS 157") in an inactive market and provides an illustrative example to demonstrate how the fair value of a financial asset is determined when the market for that financial asset is not active. The guidance provided by FSP 157-3 is consistent with the Partnership and its consolidated entities' approach to valuing financial assets for which there are no active markets.

3. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2008:

(in thousands of dollars)

Buildings	\$	100,536
Land		25,168
Leasehold improvements		4,907
Computer and equipment		3,917
Furniture and fixtures		2,911
Computer software		2,423
Tenant improvements		2,285
Site improvements		986
Accumulated depreciation		(11,578)
	\$	<u>131,555</u>

The Partnership and its consolidated entities are depreciating fixed assets as follows:

	Period
Buildings	29 - 40 years
Leasehold improvements	Lease term
Computer and equipment	5 years
Furniture and fixtures	7 years
Computer software	3 years
Site improvements	10 years
Tenant improvements	Shorter of lease term or estimated life of tenant improvement

Depreciation expense in 2008 totaled approximately \$6.1 million for the Partnership and its subsidiaries.

The Partnership and its consolidated entities had approximately \$5.5 million of capital expenditures in 2008.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2008

4. Investments

Detailed below is a summary of the Partnership and its subsidiaries' investments at December 31, 2008:

(in thousands)

	Amortized Cost/Cost	Value
Investments in floating rate syndicated bank loans	\$ 489,400	\$ 206,847
Investments in fixed rate syndicated bank loans	88,749	62,918
Investments in fixed income securities	1,432,684	435,497
Investments in floating income investments	315,363	84,335
Investments in equity securities	1,583,804	770,028
Investments in life settlement contracts	247,668	200,386
Investments in CLOs (mezz tranches)	254,453	84,214
Investments in CLOs (residual CLO equity tranches)	470,421	70,700
Investments in closed-end mutual funds	26,253	9,244
Investments in private placement real estate	439,095	282,428
Investments in limited partnerships	121,433	130,077
Investments in warrants	6,088	2,085
Total investments	<u>\$ 5,475,411</u>	<u>\$ 2,338,759</u>
Total return swaps	\$ -	\$ (96,228)
Credit default swaps	(7,206)	(156,613)
Net unrealized gain/loss on swaps	<u>\$ (7,206)</u>	<u>\$ (252,841)</u>
	Proceeds	Value
Securities sold short, not yet purchased	<u>\$ 60,094</u>	<u>\$ 71,831</u>

Affiliated Investments

Investments in Residual CLO Equity and Mezzanine Tranches

Investments in affiliated residual CLO equity tranches primarily represent tranches of CLOs for which the Partnership and Highland Europe provide investment advisory services. The CDO Master Fund receives quarterly distributions based on the excess interest after paying the stated interest distributions to the senior and mezzanine note holders, and paying the investment manager, trustee and other related fees. A portion of these distributions are amortized against the cost basis of the investment based on the actual cash distributions received during the year versus the total expected remaining cash distributions to the residual CLO equity tranche. The remainder of the distribution is recorded as interest income.

Investments in residual equity and mezzanine tranches of CLOs are not actively traded. The estimated fair value of the CLOs is derived from broker quotes and valuation models. The estimated fair value of these investments as presented in the consolidated balance sheet does not necessarily represent the amount that could be obtained from the sale of these investments. Changes in the credit quality or the performance of the underlying collateral, the availability and price of assets available for reinvestment, interest rates and/or the interest rate curve, or other market conditions could have a material impact on the estimated fair value of the investments.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Investment in Highland Special Situations Fund

The Partnership invests in Highland Special Situations Fund ("HSSF"), a diversified, closed end RIC for which the Partnership provides investment advisory services. As of December 31, 2008, the market value of the Partnership's investment in HSSF was approximately \$2.1 million. During the year ended December 31, 2008, the Partnership accrued approximately \$0.3 million in dividends from HSSF.

Investment in Highland Equity Opportunities Fund

The Partnership invests in Highland Equity Opportunities Fund ("HEOF"), a diversified, open end RIC for which the Partnership provides investment advisory services. As of December 31, 2008, the market value of the Partnership's investment in HEOF was approximately \$0.2 million. During the year ended December 31, 2008, the Partnership received approximately \$152 in dividends from HEOF, which the Partnership reinvested in the fund.

Investment in Highland Distressed Opportunities, Inc.

The Partnership invests in Highland Distressed Opportunities, Inc. ("HCD"), a non-diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2008, the market value of the Partnership's investment in HCD was approximately \$2.1 million. During the year ended December 31, 2008, the Partnership received approximately \$0.1 million in dividends from HCD, which the Partnership reinvested in the fund.

Investment in Highland High Income Fund

The Partnership invests in Highland High Income Fund. ("HHIF"), a non-diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2008, the market value of the Partnership's investment in HHIF was approximately \$0.2 million. During the year ended December 31, 2008, the Partnership received approximately \$0.3 million in dividends from HHIF, which the Partnership reinvested in the fund.

Investment in Highland Income Fund

The Partnership invests in Highland Income Fund ("HIF"), a non-diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2008, the market value of the Partnership's investment in HIF was approximately \$0.3 million. During the year ended December 31, 2008, the Partnership received approximately \$0.3 million in dividends from HIF, which the Partnership reinvested in the fund.

Prepaid Forward Contract

On July 28, 2006, Highland Multi-Strategy Onshore Master Subfund I, LLC and Barclays Bank PLC ("Barclays") entered into a prepaid forward contract. The Partnership and affiliates redeemed approximately \$312.7 million of a reference portfolio, which was comprised of the following basket of funds advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund and Select Equity Fund. Barclays simultaneously contributed approximately \$312.7 million as a hedge to its obligation under the prepaid forward contract.

Barclays was prepaid approximately \$156.3 million, or one-half of the reference portfolio value at initiation of the transaction. A notional amount, (the initial reference portfolio value less the amount prepaid), accretes interest to Barclays at monthly LIBOR plus 0.90% per annum. As of December 31, 2008, the notional amount was approximately \$184.3 million.

A collateral account in the amount of approximately \$53.2 million was established to further secure the transaction. Due to extreme market volatility, all of the underlying holdings in the collateral account were sold during 2008.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

The term of the prepaid forward contract is three years and allows for net settlement upon termination. At contract expiration, Barclays will remit in cash the greater of the difference between the reference portfolio value and the notional amount, as valued on the scheduled termination date, or zero. As of December 31, 2008, the contract did not have a positive net fair value.

Detailed below is a summary of the transaction as of December 31, 2008:

(in thousands of dollars)

Reference Portfolio	Value
Real Estate Fund	\$ 46,265
Highland Crusader Fund, L.P.	30,483
Select Equity Fund	15,337
Equity Focus Fund	8,451
Highland Credit Opportunities CDO, L.P.	295
Highland CDO Opportunity Fund, Ltd.	-
Highland Credit Strategies Fund, L.P.	-
Reference portfolio total	<u>100,831</u>
Notional amount	<u>(184,272)</u>
Fair value of prepaid forward contract	<u>\$ (83,441)</u>

On October 7, 2008, Barclays submitted a notice of early termination for the prepaid forward contract. Refer to Note 17 for further discussion.

Accreting Strike Option

On February 28, 2007, Highland Multi-Strategy Onshore Master Subfund II, LLC entered into an Accreting Strike Option ("ASO") with Barclays. The ASO's value is based on the following basket of funds ("the reference portfolio") advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund, Select Equity Fund and Credit Opportunities Domestic Feeder. The value of the reference portfolio at inception was approximately \$250.2 million

Barclays was paid a \$71.4 million premium on the option. The strike price, (the initial reference portfolio value less the premium paid), accretes interest to Barclays at monthly LIBOR plus 1.4% per annum. As of December 31, 2008, the strike price was approximately \$176.4 million.

The term of the accreting strike option is five years and allows for net settlement upon termination. At contract expiration, Barclays will remit in cash the greater of the difference between the reference portfolio value and the strike price, as valued on the scheduled termination date, or zero. As of December 31, 2008, the ASO did not have a positive net fair value.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Detailed below is a summary of the transaction as of December 31, 2008:

(in thousands of dollars)

Reference Portfolio	Value
Select Equity Fund	\$ 93,228
Real Estate Fund	20,687
Highland Crusader Fund, L.P.	11,040
Equity Focus Fund	5,749
Highland Credit Opportunities CDO, L.P.	365
Highland CDO Opportunity Fund, Ltd.	-
Highland Credit Strategies Fund, L.P.	-
Reference portfolio total	<u>131,069</u>
Notional amount	<u>(176,400)</u>
Fair value of prepaid forward contract	<u>\$ (45,331)</u>

On October 13, 2008, Barclays served notice of early termination for the accreting strike option. Refer to Note 17 for further discussion.

Investment in Highland Financial Partners, L.P. ("HFP")

The Partnership invests in HFP, a holding company organized to provide investors with the earnings of its leveraged credit subsidiaries. As of December 31, 2008, the Partnership's equity investment in HFP had no value and was permanently impaired. The Partnership recognized a \$74.7 million realized loss in Net realized loss from equity method investees.

On October 20, 2008, the Partnership received an HFP senior secured note in the amount of \$22.3 million from CDO Master Fund. The note was transferred to the Partnership to satisfy a prior obligation. The note accrues interest at a rate of 10% per annum, payable quarterly. As of December 31, 2008, the fair value of the note was approximately \$7.4 million.

Investment in Highland Capital Special Allocation, LLC

The Partnership is the sole owner of HCSA, which was organized to receive management incentive allocations from HFP. During 2008, HCSA did not receive an incentive allocation. As of December 31, 2008, the Partnership's investment in HCSA had no value and was permanently impaired. The Partnership recognized a \$53.8 million realized loss in Net realized loss from equity method investees.

5. Fair Value of Financial Instruments

As discussed in Note 2, the Partnership and its consolidated entities categorize investments recorded at fair value in accordance with the hierarchy established by SFAS No. 157.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements
December 31, 2008**

The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2008:

(in thousands of dollars)

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total Fair Value at December 31, 2008</u>
Investments	\$ 221,571	\$ 43,837	\$ 2,073,351	\$ 2,338,759
Derivatives	-	-	(252,841)	(252,841)
Securities sold, not yet purchased	71,831	-	-	71,831

The following table provides a roll forward of the financial instruments classified within Level 3 for the year ended December 31, 2008. The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement.

Fair Value Measurements Using Significant Unobservable Inputs

(in thousands of dollars)

	<u>Investments</u>	<u>Derivatives</u>
Estimated fair values as of January 1, 2008	\$ 5,740,260	\$ 78,060
Purchases, sales and maturities, net	(788,142)	51,512
Net transfers in/(out) of Level 3	10,959	-
Net realized (losses)/gains	(1,014,179)	(181,345)
Net unrealized losses	<u>(1,875,546)</u>	<u>(201,068)</u>
Estimated fair values as of December 31, 2008	<u>\$ 2,073,352</u>	<u>\$ (252,841)</u>

6. Derivative Transactions

In June 2008, the Partnership terminated a total return swap ("TRS") and began the process of selling the underlying assets in the TRS. The Partnership recognized a \$7.8 million loss on the sale of the underlying assets in the TRS. The loss and net settlement interest are recorded in Net realized loss on investment transactions in the Consolidated Statement of Income. As of December 31, 2008, all of the assets in the TRS had been sold; however, there were certain assets that remained unsettled. As of December 31, 2008, approximately \$2.5 million in collateral posted was owed to the Partnership for these unsettled trades. This amount is recorded in Due from broker.

During the first quarter of 2008, the Partnership held short positions in exchange traded commodities and realized a loss of \$16.7 million from these transactions. This activity is recorded in Net realized loss on investment transactions.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

During the first quarter of 2008, the Partnership participated in a credit-default swap ("CDS") through one of the Partnership's Consolidated Investment Funds. The underlying assets in the CDS were subprime mortgage backed securities. In this transaction, the Partnership was a purchaser of protection against the lack of future cash flows from these securities. The Partnership realized a gain of \$74.5 million from the sale of the CDS, which is recorded in Net realized loss on investment transactions. The Partnership's premium recognized for the transaction in 2008 was \$0.9 million. The premiums are recorded in Net realized loss on investment transactions.

7. Total Return Swaps

Detailed below is an analysis of the total return swap balances of the Consolidated Investment Funds at December 31, 2008:

(in thousands of dollars)

	Value
Collateral included in "Restricted cash"	\$ 196,409
Notional value of underlying investments	\$ 231,586
Fair value of underlying investments	101,588
Unrealized depreciation of underlying investments included in "Unrealized losses on derivatives contracts"	\$ (117,046)

8. Credit Default Swaps

The Consolidated Investment Funds enter into credit default swaps to simulate long and short bond positions that are either unavailable or considered to be less attractively priced in the bond market. The Consolidated Investment Funds use these swaps to reduce risk where they have exposure to the issuer, or to take an active long or short position with respect to the likelihood of an event of default.

The buyer of a credit default swap is generally obligated to pay the seller a periodic stream of payments over the term of the contract in return for a contingent payment upon the occurrence of a credit event with respect to an underlying reference obligation. A credit event for corporate reference obligations includes bankruptcy, failure to pay, obligation acceleration, repudiation/moratorium or restructuring. If a credit event occurs, the seller must pay the contingent payment to the buyer, which is typically the par value (full notional value) of the reference obligation, though the actual payment may be mitigated by terms of the International Swaps and Derivative Agreement ("ISDA"), allowing for netting arrangements and collateral. In addition, the payment may be reduced by anticipated recovery rates, segregated collateral and netting arrangements that may incorporate multiple transactions with a given counterparty.

The seller of credit default swaps receives a fixed rate of income throughout the term of the contract, which typically is between one month and five years, provided that no credit event occurs. If a credit event occurs, the seller may be required to pay the buyer the full notional value of the reference obligation.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

As of December 31, 2008, the Consolidated Investment Funds were the buyers of credit default swaps ("receiving protection") on a total notional amount of \$72.5 million and the sellers of credit default swaps ("providing protection") on a total notional amount of \$387.1 million. The notional amount of the swaps is not recorded in the financial statements; however it approximates the maximum potential amount of future payments that the Consolidated Investment Funds could be required to make if they are the seller of protection and a credit event were to occur.

Those credit default swaps for which the Partnership provided protection at December 31, 2008 are summarized in the tables below. The reference obligations for all of these swaps are single issuers.

(in thousands of dollars)

	Underlying Referenced Asset		
	Collateralized		Total
	Corporate Debt	Loan Obligation Securities	
Fair value of credit default swaps	\$ (109,184)	\$ (48,875)	\$ (158,059)
Maximum potential amount of future payme	328,110	59,000	387,110
Collateral posted with counterparties by the consolidated investment funds	152,787	18,563	171,350

	Maximum Potential Amount of Future Payments			
	by Contract Term			Total
Current Credit Rating* on Underlying Bond	1-5 Years	5-10 Years	Greater than 10 Years	
BBB	\$ (213,110)	\$ -	\$ (20,000)	\$ (233,110)
BB	(40,000)	-	(24,000)	(64,000)
BB-	(10,000)	(15,000)	(5,000)	(30,000)
B+	(10,000)	-	-	(10,000)
B-	(20,000)	-	-	(20,000)
CCC+	(15,000)	-	-	(15,000)
CCC-	(15,000)	-	-	(15,000)
	<u>\$ (323,110)</u>	<u>\$ (15,000)</u>	<u>\$ (49,000)</u>	<u>\$ (387,110)</u>

The fair value of the credit default swaps for which the Consolidated Investment Funds purchased protection at December 31, 2008 was approximately \$5.5 million.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2008

9. Debt and Notes Payable

Consolidated debt and notes payable as of December 31, 2008 consists of:

(in thousands of dollars)

	December 31, 2008
Partnership revolving credit facility	\$ 150,000
Credit Opportunities Master note payable	116,590
HFREC notes payable	98,482
Real Estate Fund revolving credit facility	20,000
HCM Trident	11,875
Partnership promissory note	875
	<u>\$ 397,822</u>

Revolving Credit Facilities

On January 26, 2007, the Partnership entered into a syndicated credit agreement with Bank of America as syndication agent and The Bank of Nova Scotia as administrative agent in the amount of \$60 million (the "Credit Agreement"). The Credit Agreement provides for revolving loans which are scheduled to mature on June 30, 2009, or March 26, 2010 if certain derivative transactions are extended by the Partnership.

Interest is payable on the last day of each loan, or if the loan is greater than three months, then interest is payable in three month increments. The applicable spread for LIBOR loans under the Credit Agreement is LIBOR plus 1.75% per annum. For base rate loans, the spread is 0.50% per annum over the prevailing prime rate.

Under the terms of the Credit Agreement, the availability of credit was subject to financial covenants requiring the Partnership to maintain a minimum amount of fee earning assets under management, a minimum tangible net worth, and a maximum leverage ratio.

On March 20, 2007, the Credit Agreement was amended and restated, increasing the availability under the facility to \$150 million and increasing the lender group to include five other banks. On November 2, 2007, the Credit Agreement was amended a second time to allow the Partnership to maintain certain insurance policies through an affiliate.

On December 19, 2008, the Partnership was notified by the Bank of Nova Scotia of an event of default under the terms of the Credit Agreement. The default was related to a failure to maintain a minimum tangible net worth. As a result, on December 24, 2008, the spread over LIBOR for LIBOR loans not maturing before December 31, 2008 increased to 3.75% per annum. On December 30, 2008, all LIBOR loans not maturing before December 31, 2008 were converted to base rate loans, with the applicable spread being 2.5% per annum. All other outstanding LIBOR borrowings with maturations prior to December 31, 2008 were financed at the applicable base rate. The note was subsequently refinanced in July 2009, see note 18.

The fair value of the facility as of December 31, 2008 was approximately \$126.3 million.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

In 2005, the CDO Master Fund entered into a credit agreement in the amount of \$150 million (the "CDO Credit Agreement") with Citibank, N.A. and Citigroup Financial Products Inc. The CDO Credit Agreement was restated on the original maturity date of August 27, 2008. The restated agreement stated that equity cash flows earned on the assets in the facility would be pledged against the debt principal until paydown with no further drawdowns available. Interest is charged at Federal Funds open rate plus 1.50%. As of December 31, 2008, the facility had been paid back in full.

In February 2006, the Real Estate Fund entered into a credit agreement in the amount of \$31 million (the "REF Credit Agreement") with Wachovia Bank. Interest is charged at LIBOR plus 2%. Interest is payable on the first day of each quarter. On September 29, 2008, the REF credit agreement was amended and restated, decreasing the availability under the facility to \$25 million. Interest is charged at LIBOR plus 2.25%. As of December 31, 2008, \$20 million was outstanding under the REF Credit Agreement and approximately \$116.5 million of investments were pledged as collateral. The Partnership considers the book value of the line of credit at December 31, 2008 to approximate its fair value. As of December 31, 2008, Real Estate Fund was in payment default for its failure to make a required \$5 million principal reduction payment. Real Estate Fund has subsequently received a forbearance agreement. See Note 16.

Term Loan

On July 6, 2007, HCM Trident entered into a term loan facility agreement (the "Facility Agreement") with Nomura International PLC in the amount of \$26.25 million. The Facility Agreement is scheduled to mature on the July 6, 2008, unless extended. The Facility Agreement interest is charged at LIBOR plus 0.75% and is payable quarterly on July 6, October 6, January 6, and April 6.

On July 14, 2008, the Facility Agreement was amended to reduce the availability to \$25 million. The Facility Agreement rate of interest was increased to 2.25% in excess of LIBOR. Interest is payable quarterly on July 6, October 6, January 6, and April 6.

On November 2, 2008, the Facility Agreement was amended to allow for periodic payments of principal and interest. The amortization schedule of the facility is as follows:

(in thousands of dollars)

<u>Payment Date</u>	Repayment Amount
October 28, 2008	\$ 1,000
November 3, 2008	5,000
December 15, 2008	4,000
February 16, 2009	3,000
March 16, 2009	2,000
April 15, 2009	2,000
May 15, 2009	2,000
June 15, 2009	2,800
	\$ 21,800

As of December 31, 2008, the estimated fair market value of the facility was approximately equal to the carrying value.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Promissory Notes

On January 4, 2006, the Partnership received a promissory note (the "Promissory Note") from Compass Bank in the amount of \$2 million. The Partnership must make monthly payments of principal and accumulated interest on the fifth day of each month. The Promissory Note will mature on February 1, 2011. On February 8, 2007, the Partnership and Compass Bank modified the Promissory Note, which reduced the interest rate from 2.0% to 1.7% in excess of LIBOR. The outstanding balance of the Promissory Note as of December 31, 2008 was \$0.9 million. As of December 31, 2008, the estimated fair market value of the note was approximately equal to the carrying value.

Credit Opportunities Master Note Payable

On December 19, 2008, Highland Credit Opportunities CDO Financing, LLC ("CDO Financing"), a wholly owned subsidiary of Credit Opportunities Master, issued \$122.4 million par value of senior secured convertible notes and received cash proceeds of \$115.6 million and investment securities with an estimated fair value of \$0.9 million. The notes are governed by a Note Purchase Agreement (the "Purchase Agreement") and guaranteed by Credit Opportunities Master and Highland Credit Opportunities, Ltd. (the "CDO"). At the note holders' option, the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master between January 1, 2010 and December 31, 2012. Subject to certain conditions, the Purchase Agreement also allows for CDO Financing to issue up to \$106.7 million par value of additional notes to the existing note holders in exchange for proceeds of \$101.4 million.

The proceeds from the notes were used primarily to fund an additional equity investment in the CDO. This investment was required under the terms of a forbearance agreement that Credit Opportunities Master executed with the Majority Controlling Class of the CDO's note holders.

The notes have a stated maturity date of December 31, 2012 and accrue interest on a quarterly basis at a rate of 25% per annum. In addition, the Purchase Agreement requires payment of a 2.5% fee on the unfunded portion of the note commitment.

Credit Opportunities Master may elect to prepay up to 50% of the outstanding principal balance from July 1, 2010 through December 31, 2010. After that period, Credit Opportunities Master may prepay all or a portion of the outstanding principal, provided that each partial payment made to the note holders is in an aggregate principal amount of at least \$0.5 million.

The Agreement requires Credit Opportunities Master to pay the following fees, as a percentage of the principal balance, in the event of a prepayment:

<u>Prepayment Period</u>	<u>Fees</u>
July 1, 2010 - December 31, 2010	15.0%
July 1, 2011 - December 31, 2011	10.0%
July 1, 2012 - December 31, 2012	6.0%

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

The Purchase Agreement grants the note holders a lien on certain assets held by Credit Opportunities Master and the CDO. In addition, it requires Credit Opportunities Master and the CDO to comply with various financial covenants. Failure to meet these covenants may result in an event of default and give the note holders the right to accelerate repayment of the debt or initiate a liquidation of certain assets. Credit Opportunities Master was not in technical compliance with a liquidity calculation specified in the debt covenants as of December 31, 2008. However, the calculation was in compliance with covenants as of January 31, 2009.

As of December 31, 2008, the estimated fair market value of the notes was approximately equal to the par value.

HFREC Notes Payable***HE Sugar Land Project, LLC "HE Sugar Land" Note Payable***

On August 27, 2007, HE Sugar Land assumed a mortgage loan from KeyBank Real Estate Capital secured by the underlying property in HE Sugar Land. The note had an original principal balance of \$46 million and a balance of \$43.4 million on the date of assumption. HE Sugar Land paid an assumption fee of \$0.2 million and deposited \$5.3 million into a reserve fund in connection with the assumption of the note. The note accrues interest at a fixed rate of 7.72% per annum. The note matures with all principal and accrued interest due on July 11, 2011. The monthly payment for principal and interest is \$0.3 million and is due on the eleventh of each month. As of December 31, 2008, the estimated fair market value of the note was approximately equal to the carrying value.

HE 1001 West Loop Project, LLC "1001 West Loop" Note Payable

On December 13, 2007, 1001 West Loop entered into a \$19.5 million loan with affiliates of the Partnership, which is secured by the underlying property in 1001 West Loop (the "Term Loan"). The Term Loan matures with all principal and accrued interest due on December 13, 2012. The Term Loan bears interest at a rate of 3.5% plus 90-day LIBOR, set on the 13th day of every third month (5.5% on December 31, 2008). Interest payments are due on the first day of the third month after the date of the Term Loan agreement, and on the first day of every third month thereafter.

In addition, 1001 West Loop entered into a \$6.5 million loan with affiliates of the Partnership on December 13, 2007, which is secured by a pledge of 1001 West Loop's ownership interests in its subsidiaries and the Manager's Subordination of Property Management Agreement (the "Mezz Loan"). The Mezz Loan matures with all principal and accrued interest due on December 31, 2012. The Mezz Loan bears interest at a fixed rate of 12%. Interest payments are due on the first day of the third month after the date of the Mezz Loan agreement, and on the first day of every third month thereafter.

As of December 31, 2008, the estimated fair market values of the notes were approximately equal to their carrying values.

HE 2425 West Loop Project, LLC "2425 West Loop" Note Payable

On December 13, 2007, 2425 West Loop entered into a \$22.9 million loan with affiliates of the Partnership, which is secured by the underlying property in 1001 West Loop (the "Term Loan"). The Term Loan matures with all principal and accrued interest due on December 13, 2012. The Term Loan bears interest at a rate of 3.5% plus 90-day LIBOR, set on the 13th day of every third month (5.5% on December 31, 2008). Interest payments are due on the first day of the third month after the date of the Term Loan agreement, and on the first day of every third month thereafter.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

In addition, 2425 West Loop entered into a \$7.6 million loan with affiliates of the Partnership on December 4, 2007, which is secured by a pledge of 1001 West Loop's ownership interests in its subsidiaries and the Manager's Subordination of Property Management Agreement (the "Mezz Loan"). The Mezz Loan matures with all principal and accrued interest due on December 31, 2012. The Mezz Loan bears interest at a fixed rate of 12%. Interest payments are due on the first day of the third month after the date of the Mezz Loan agreement, and on the first day of every third month thereafter.

As of December 31, 2008, the estimated fair market values of the notes were approximately equal to their carrying values.

HCREA Nolen Drive, L.P. ("Nolen Drive") Note Payable

On September 18, 2006, Nolen Drive entered into a \$7.1 million note payable with Artesia Mortgage Capital Corporation, which is secured by the underlying property in Nolen Drive (the "Term Loan"). The Term Loan matures with all principal and accrued interest due on October 11, 2011. The Term Loan bears interest at a rate of 6.52% per annum. Payments are due on the 11th of every month. As of December 31, 2008, the estimated fair market value of the note was approximately equal to the carrying value.

10. Financial Instruments with Concentration of Credit and Other Risks**Financial Instruments**

The Partnership and its consolidated entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The consolidated entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the consolidated entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the consolidated balance sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Master Partnership due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Investment Fund's exposure to market risk is affected by a number of factors, including the size, composition and diversification of its investments and swap agreements; interest rates; and market volatility. The Partnership and its Consolidated Investment Funds use various forms of leverage, including notes, which increase the effect of any investment value changes on partners' capital.

Credit Risk

Credit risk is the potential loss the Partnership and its consolidated entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the consolidated entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the consolidated entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Liquidity Risk

The Consolidated Investment Fund's limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Investment Funds nor their manager expect such a market to develop.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Business Risk

The Partnership provides advisory services to the consolidated investment funds. The Consolidated Investment Funds could be materially affected by the actions and liquidity of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Investment Funds may invest in high-yield bonds that have been assigned a lower rating categories or are not rated by various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further reduce their liquidity. The Consolidated Investment Funds also invest in senior secured syndicated bank loans and enter into direct contractual relationships with the corporate borrowers. As such, the Partnership and its Consolidated Investment Funds are exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower.

The current economic recession has severely disrupted the market for most high-yield bonds and loans and may continue to have an adverse effect on the value of such instruments. It is also probable that the economic downturn could adversely affect the ability of the issuers of such securities to repay principal and interest thereon and increase the incidence of default for such securities.

CLO Equity Investments

The Partnership and its Consolidated Investment Funds may invest in CLO equity that are not rated by various credit rating agencies and are generally considered to be speculative with respect to the issuer's ability to repay principal and interest. The yields and prices of these non-rated CLO equity tranches are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further limit their liquidity. Given a backdrop of deteriorating general economic conditions, the Partnership and its consolidated investment funds are exposed to the potential non-payment of principal and interest from their CLO equity investments. As of December 31, 2008, 25 of the 30 CLOs managed by the Partnership paid interest to the equity holders on their last payment date.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Investment Funds invest have been issued by distressed companies in an unstable financial condition. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Credit Default Swaps

Credit default swaps involve greater risks than if the Partnership or its Consolidated Investment Funds had shorted the reference obligations directly. In addition to the market risk discussed above, credit default swaps are subject to liquidity risk and credit risk. If a credit event occurs, the value of the reference obligation received by the Partnership or its Consolidated Investment Funds, couple with the periodic payments previously received, may be less than the full notional amount it pays to the buyer, resulting in loss of value.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Investment Funds' investments. However, the Consolidated Investment Funds' portfolio could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Investment Funds. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Investment Funds to losses that are disproportionate to market movements as a whole.

Custody Risk

The clearing operations for the Partnership and its Consolidated Investment Funds are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Investment Funds' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Investment Funds may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Investment Funds' might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Investment Funds may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Investment Funds' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Investment Funds. If the value of the Consolidated Investment Funds' securities fall below the margin level required by a counterparty, additional margin deposits are required. If the Consolidated Investment Funds are unable to satisfy a margin call, the counterparty could liquidate the position in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Investment Funds to incur significant losses.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Investment Funds' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Investment Funds. In addition, because the use of leverage allows the Consolidated Investment Funds to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Investment Funds may lose in the event of adverse price movements is high in relation to the amount of their investment.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

In the event of a sudden drop in the value of the Consolidated Investment Funds' assets, the Consolidated Investment Funds may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Investment Funds may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Investment Funds have the ability to apply discretionary margin, haircut, financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2008, the Partnership and Consolidated Investment Funds' investments and derivative contracts were predominantly concentrated in the United States and the Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that the Consolidated Investment Funds' are able to realize on the sale of its investments will directly affect the amounts that the investors in the Feeder Funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2008.

Litigation Risk

The Partnership and its Consolidated Investment Funds are periodically subject to legal actions arising from the ordinary course of business. In addition, certain of the Consolidated Investment Funds' Feeder Fund investors have filed lawsuits after receiving notification of the decision to wind-down certain Consolidated Investment Funds' investment portfolios (Note 16). Refer to Note 17 for a discussion of the open litigation.

11. Related Party Transactions**Expenses Reimbursable by Funds Managed**

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2008, approximately \$18.8 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in *Other current assets* in the accompanying consolidated balance sheet.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Long Term Incentive Plan and Intercompany Loan Payable to Highland Capital Management Services, Inc. ("HCMSI")

Effective January 1, 2001, all of the Partnership's employees were transferred to HCMSI, which provides personnel management and consulting services to the Partnership. The Partnership and HCMSI entered into a management agreement whereby the Partnership compensated HCMSI for its employee expenses plus a consulting services fee. As of January 1, 2005, there were no further transactions with HCMSI as all employees were transferred to the Partnership.

Effective January 1, 2001, HCMSI approved a long-term incentive plan ("the LTIP") for select employees who are eligible to receive Long-Term Incentive Units ("the Units") under the LTIP. The number of Units authorized under the LTIP is 30,000,000 and a majority of the Units granted vest 40% during the grant year and 30% for each of the two years thereafter, expiring 10 years after such grant date, unless different terms are agreed upon between the Plan Administrator and the employee. The fair value of the Units are based upon the fair value of the Partnership, as determined in good faith, by James Dondero, the Plan Administrator and the sole shareholder of the general partner and a limited partner of the Partnership. The LTIP was transferred to the Partnership from HCMSI on January 1, 2005.

The Units are exercisable at the discretion of the Plan Administrator, or upon a triggering event defined as the earlier of the following events:

- Change in control
- Initial public offering
- Participant's voluntary or involuntary termination due to death, disability, retirement, or hardship
- Participant's voluntary or involuntary termination other than due to death, disability, retirement, hardship, or cause is exercisable to the extent the Participant is entitled to only 80% of the vested shares.

A total of 3,425,074 Units are outstanding as of December 31, 2008 under the LTIP. During the year ended December 31, 2008, a total of 350,366 Units were exercised. These exercised Units reverted back to the LTIP. During the year ended December 31, 2008, the liability under the LTIP decreased by approximately \$38.1 million, which is included in Compensation and benefits in the consolidated statement of income.

The total balance payable to HCMSI was approximately \$3.8 million as of December 31, 2008, which is related to the LTIP accrual.

Effective December 31, 2004, all of the employees at HCMSI were transferred to the Partnership, and the management agreement between the Partnership and HCMSI was terminated as to the provision of future services. However, all of the outstanding and unfunded obligations of the Partnership to HCMSI as of December 31, 2004, as well as any additional obligations that may arise in relation to these amounts, will continue to be due and payable to HCMSI until satisfied in accordance with the provisions of the agreements in place.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2008

Accounts Held with Related Party

During the year the Partnership and its subsidiaries maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2008, balances in the accounts were approximately \$15.8 million. Approximately \$0.1 million of interest was earned on this account for the year ended December 31, 2008.

Controlling Positions

Various members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. Any director's fees received by the Partnership for these services as directors are paid to and retained by the Partnership. As of December 31, 2008, the Partnership and its subsidiaries held the following investments in these companies:

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008***(in thousands of dollars)*

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 15,161
Complete Genomics	Common Equity	16,000
Cornerstone Healthcare Group Holding, Inc.	Common Equity	17,857
Highland Financial Corporation	Common Equity	2,871
Legacy Pharmaceuticals	Common Equity	385
Marcal paper Mills, LLC	Common Equity	55
Nex-Tech Aerospace Holdings, Inc.	Common Equity	5,533
Romacorp Restaurant Holdings, Inc.	Common Equity	767
Safety-Kleen Inc.	Common Equity	183,720
Trussway Industries, Inc.	Common Equity	11,519
Blackwell BMC, LLC	Common Equity	17,225
Epocal, Inc.	Preferred Equity	76,403
Solstice Neurosciences, Inc.	Preferred Equity	10,700
Terrestar Corporation	Preferred Equity	60,250
Highland Distressed Opportunities Fund	Closed-End Mutual Fund	2,140
Highland Credit Strategies Fund	Closed-End Mutual Fund	3,607
Highland Special Situations Fund	Mutual Fund	2,094
Highland Long/Short Equity Fund	Mutual Fund	193
Highland High Income Fund	Mutual Fund	177
Highland Income Fund	Mutual Fund	330
Highland Healthcare Fund	Mutual Fund	2,295
Broadstripe Holdings, LLC	Loan Revolver	1,986
Home Interiors & Gifts, Inc.	Loan Revolver	5,024
Legacy Pharmaceuticals	Loan Revolver	(871)
Home Interiors & Gifts, Inc.	Initial Term Loan	18,988
Consolidated Restaurant Companies, Inc.	Term Loan	9,366
Blackwell BMC, LLC	Term Loan	2,376
Decision One Corporation	Term Loan	1,000
Legacy Pharmaceuticals	Term Loan	13,121
Broadstripe Holdings, LLC	Term Loan - First Lien	7,806
Cornerstone Healthcare Group Holding, Inc.	Loan - Second Lien	24,014
Broadstripe Holdings, LLC	Term Loan - Second Lien	8,918
Decision One Corporation	Term Loan B	1,601
Highland Financial Partners, L.P.	Long-Term Debt	15,661
Home Interiors & Gifts, Inc.	Swap	(9,878)

During the year ended December 31, 2008, the Partnership earned approximately \$0.3 million of income from those entities where members of management serve as members of the Board of Directors. The amount is included in Other income in the consolidated statement of income.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Real Estate Partnerships

The Partnership and its principals serve as the general partner of the general partner of various partnership investments in the Real Estate Fund and Highland Financial Real Estate Corporation. Such investments are listed below:

(in thousands of dollars)

Limited Partnership	Value
HE Sugar Land Project, LLC	\$ 13,719
HCREA Prosper Crossing West, L.P.	13,632
HCREA Canyon Falls	10,175
HCREA Prosper Crossing East, L.P.	8,983
HCREA Canyon Falls Town Center, L.P.	8,511
HCREA Kings Wood	6,672
HCREA Indian Creek, L.P.	5,467
HCREA Terrell Land, L.P.	5,124
HE 2425 West Loop Project, LLC	4,415
HE 1001 West Loop Project, LLC	3,922
HCREA Wilcox 190, L.P.	3,629
HCREA Celina Springs, L.P.	3,504
HE Mezz KR, LLC	3,133
HCREA The Tribute, L.P.	2,986
HCREA Nolen Drive, L.P.	2,193
HCREA Wylie Partners I, L.P.	1,764
HCREA Princeton 380, L.P.	1,411
HCREA Highland Village, L.P.	1,202
HCREA Lockhill, Retail, L.P.	1,049
HCREA Pilot Point Land, L.P.	1,030
HCREA Grey Walls, L.P.	880
Highland Capital Terrell Investment Partners, L.P.	565
HCREA Embarcadero, L.P.	278
HCREA Hutchins Truck Service, L.P.	110
HCREA Trimarchi of North Dallas, L.P.	-
HCREA Court Glen, L.P.	-
HCREA Breckenridge, L.P.	-

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank, SSB, an affiliate of the Partnership, was the agent bank. Interest earned on the loans during the year was approximately \$27.8 million. At December 31, 2008, these subsidiaries were invested in NexBank, SSB agented loans with commitments and market values totaling approximately \$462.1 million and \$175 million, respectively.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Notes to Affiliates

On July 31, 2006, the Partnership issued a promissory note in the amount of \$400,000 to an employee of an affiliate. The note accrued interest at the mid-term applicable federal rate as promulgated by the Internal Revenue Service. The note is payable in one lump sum on the earlier of July 31, 2010 or an event of acceleration. In July 2008, the remaining balance of the promissory note was forgiven.

On August 1, 2008, the Partnership issued a promissory note in the amount of \$500,000 to an employee of a subsidiary. The note accrues interest at a rate of LIBOR plus 1.75%, compounded quarterly. The note is payable in one lump sum on the earlier of August 1, 2011 or an event of acceleration. As of December 31, 2008, the principal amount on the promissory note was \$500,000 with interest accrued of approximately \$15,000.

On May 21, 2007, the Partnership issued two loans to employees of a subsidiary aggregating \$2.0 million, each with a principal balance of \$1.0 million. The note accrues interest at a rate of LIBOR plus 1.75%, compounded quarterly. The principal balance plus all accrued interest is due on the earlier of May 1, 2010 or an event of acceleration. During 2008, 30% of the outstanding principal of each loan was forgiven. As of December 31, 2008, each loan principal was \$0.7 million, with interest accrued of approximately \$65,000.

On August 20, 2008, the Partnership issued a promissory note in the amount of \$330,000 to an employee of the Partnership. The note accrues interest at a rate of LIBOR plus 1.75%. The note is payable in one lump sum on the earlier of August 20, 2015 or an event of acceleration. As of December 31, 2008, the principal amount on the promissory note was \$330,000 with interest accrued of approximately \$5,000.

On August 1, 2008, the Partnership issued a promissory note in the amount of \$500,000 to an employee of a subsidiary. The note accrues interest at a rate of LIBOR plus 1.75%, compounded quarterly. The note is payable in one lump sum on the earlier of August 1, 2011 or an event of acceleration. As of December 31, 2008, the principal amount on the promissory note was \$500,000 with interest accrued of approximately \$9,000.

On October 15, 2008, the Partnership issued a promissory note in the amount of \$500,000 to an employee of a subsidiary. The note accrues interest at a rate of LIBOR plus 1.75%, compounded quarterly. The note is payable in one lump sum on the earlier of October 15, 2011 or an event of acceleration. As of December 31, 2008, the principal amount on the promissory note was \$500,000 with interest accrued of approximately \$4,000.

On December 19, 2007, the Partnership issued a promissory note in the amount of \$30 million to a subsidiary of HFP. The note accrues interest quarterly on the principal balance on the last business day of each quarter ending March 31, June 30, September 30, and December 31 at a rate equal to the Fed Funds Rate as published by the Federal Reserve Bank of New York on the Business Day next succeeding each quarter end. The note is payable in \$5 million quarterly installments commencing June 30, 2008 and is due and payable in full on June 30, 2009, subject however to acceleration. All payments are first applied to interest and then to principal. In July 2008, the Partnership received six million common units of HFP through a conversion of the promissory note at a conversion price of \$5 per common unit.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

On September 12, 2008, the Partnership issued a promissory note in the amount of \$13.9 million to a subsidiary of HFP. The note accrues interest monthly on the principal balance on the last business day of each month at a rate equal to the Fed Funds Rate as published by the Federal Reserve Bank of New York on the Business Day next succeeding each month end. As of December 31, 2008, the principal amount on the promissory note was \$0.9 million.

Investments in Affiliates

The Partnership and its subsidiaries are the investment/collateral manager for approximately \$69.2 million of the CDO Master Fund's investments, consisting of United States and European Floating Rate CLO Mezzanine Tranches, Residual CLO Equity Tranches, common stock, Investment Funds, total return swaps, credit default swaps, long-term debt and claims. During the year, CDO Master Fund earned interest income of \$74.9 million and net realized/unrealized losses on investment transactions of \$386 million from related party investments.

In 2006, the Partnership was granted 124,468 restricted HFP units and 809,263 non-qualified HFP unit options. The options were granted with a strike price of \$15.00 and \$16.50 per unit. Both the restricted units and options vest in thirds on the anniversary of the grant date. In 2008, 41,489 and 273,087 of restricted units and options vested, respectively. Of the options that vested, 114,476 were exercised at a strike price of \$15.

On June 25, 2008, HCSA received an in kind distribution of 3,049,732 units of HFP in lieu of their incentive allocation balance. The conversion of HCSA's incentive allocation balance to HFP units implied a conversion price of \$5 per unit.

On September 26, 2008, HFP issued \$316 million of senior secured notes to the Consolidated Investment Funds in exchange for an interest in certain assets which included collateralized loan obligation securities. Due to a lack of a transfer of control caused by certain restrictive covenants associated with the exchange, these assets continue to be recognized on the Consolidated Statement of Assets, Liabilities and Partners' Capital of the Consolidated Investment Funds. Upon full payment of the outstanding principal of the senior secured notes, the restrictive covenants of the assets will be satisfied and HFP will have unencumbered interests in the assets. The Consolidated Investment Funds have recorded a liability to account for the future release of the assets, which is classified on their balance sheets as Obligation to return collateral. The Consolidated Investments Funds elected to apply the fair value option prescribed by SFAS No. 159 when they first recognized the liability, which resulted in the liability being carried at the same value as the assets in aggregate. Accordingly, the change in the fair value of the liability between September 26 and December 31, 2008 has been recognized as an unrealized gain. As discussed in Note 18, the senior secured notes were terminated subsequent to December 31, 2008.

Charitable Contributions

One of the Partnership's limited partners serves on the board of directors of Grace Ministries, a not-for-profit organization. During the year, the Partnership made a charitable contribution of \$0.1 million to Grace Ministries. This amount is presented in Other operating expenses.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Services Performed by an Affiliate

In March 2007, Highland Capital of New York, L.P., a New York limited partnership ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2008, total marketing fee expense charged to the Partnership by Highland New York was approximately \$4.8 million and as of December 31, 2008, amounts owed to Highland New York for services rendered was approximately \$2.4 million.

Participation Agreement

The Partnership and its Consolidated Investment Funds purchased protection under credit default swaps referencing residential mortgage-backed collateralized debt obligations during the year. The Partnership and some of its Consolidated Investment Funds along with an affiliated entity under common control (collectively, the "Participants") entered into related participation agreements (collectively, the "Agreements") at the time the positions were established. During the year, the Participants traded credit default swaps with a notional value of approximately \$294.8 million that were governed under the Agreements with the Participants. As of December 31, 2008, all Agreements between the Participants were closed.

Letter of Credit

In April 2007, the Partnership entered into a \$4 million standby letter of credit ("LC") on behalf of one of its Consolidated Investment Funds with the Bank of Nova Scotia. Interest is charged at 1.95%. As of December 24, 2008, the rate of interest had increased to 3.95%. As of December 31, 2008, there were no amounts drawn against the LC. Any interest paid by the Partnership on behalf of the Consolidated Investment Fund is reimbursed through an investment in the fund. For the year ended December 31, 2008, \$0.1 million of interest had been paid by the Partnership on the funds behalf.

Notes from Affiliates

On April 15, 2008, the Partnership entered into a \$24.6 million promissory note with an employee of the Partnership. The note accrues interest at a rate of 6% per annum, compounded annually and is payable upon demand. As of December 31, 2008, the principal amount on the promissory note was \$3.5 million with interest accrued of approximately \$12,000.

On April 15, 2008, the Partnership entered into an \$8.2 million promissory note with an employee of the Partnership. The note accrues interest at a rate of 6% per annum, compounded annually and is payable upon demand. As of December 31, 2008, the principal amount on the promissory note was \$4 million with interest accrued of approximately \$17,000.

On October 3, 2008, the Partnership entered into a \$2 million promissory note with Governance RE, Ltd ("Gov Re"). The note accrues interest at a rate of LIBOR plus 1.75%, compounded annually and is payable on demand. As of December 31, 2008, the principal amount on the promissory note was \$2 million with interest accrued of approximately \$28,000.

Loans to Affiliates

During 2008 the Partnership entered into short-term, non-interest bearing loans to its Consolidated Investment Funds and affiliates. The total amount of borrowings made to the Consolidated Investment Funds and affiliates in 2008 was approximately \$127.7 million. As of December 31, 2008, all amounts borrowed had been repaid to the Partnership.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Intercompany Balance

During 2008, the Partnership and an affiliate engaged in a series of short-term, non-interest bearing transactions. The affiliate's primary function is to provide personnel management and consulting services to the Partnership. As of December 31, 2008, the Partnership's intercompany liability to the affiliate was \$20.7 million.

12. Rentals Under Operating Leases

The following is a schedule of future rental payments on noncancelable tenant operating leases for properties consolidated by HFREC at December 31, 2008. The schedule does not include any amounts due from tenants upon the exercise of renewal options under certain leases. The underlying companies consolidated by HFREC also received reimbursements from tenants for certain common area maintenance ("CAM") expenses, which may include CAM costs, insurance and real estate taxes. Reimbursements for insurance and real estate taxes are not included in the following schedule.

(in thousands of dollars)

Years Ending December 31,

2009	\$	15,224
2010		7,841
2011		4,666
2012		3,703
2013		2,827

13. Commitments**Contracts in the Normal Course of Business**

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's consolidated balance sheet, consolidated statement of income, or its liquidity.

Warehouse Guarantee

On July 6, 2007, the Partnership was a party to a warehouse agreement as a first loss guarantor. HCM Trident entered into the warehouse agreement and is entitled to the positive net carry or is required to pay the negative net carry. The Partnership guaranteed the payment of the negative net carry owed by HCM Trident. This guarantee was capped at 25% of the initial purchase price of the warehouse assets of \$25.7 million, or approximately \$6.4 million plus accrued interest. The Partnership fronted \$3.8 million to HCM Trident as a deposit for the first loss guarantee.

On July 14, 2008, the warehouse agreement was amended to reflect the Partnership guaranteeing 100% of the negative net carry. The Partnership posted an additional \$1.5 million, for a total guarantee deposit on hand of \$3.1 million, net of any prior loss amounts.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

On November 2, 2008, the warehouse agreement was amended to reflect the Partnership guaranteeing any credit facility amortization payments of principal and interest on HCM Trident's behalf. As of December 31, 2008, the remaining balance on the facility with accrued interest was approximately \$12.3 million.

Operating Leases

Future minimum lease payments under operating lease commitments of the Partnership and its consolidated entities with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands of dollars)

Years Ending December 31,

2009	\$	2,354
2010		2,230
2011		2,022
Thereafter		-
	\$	<u>6,606</u>

Total rental expense of the Partnership and its consolidated entities for operating leases was approximately \$4.9 million for the year ended December 31, 2008.

Loan Commitments

Loan and other participation interests purchased by the Consolidated Investment Funds such as bank debt and trade claims may include accompanying letters of credit, revolving credit arrangements or other financing commitments obligating the Consolidated Investment Funds to advance additional amounts on demand. At December 31, 2008, the Consolidated Investment Funds had outstanding loan commitments of approximately \$70.8 million. The total amount of outstanding commitments does not necessarily reflect the actual future cash requirements, as commitments may expire unused.

14. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. Therefore, no new participants shall enter the plan after 2008 and no new benefits shall accrue under the plan after 2008. The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2008 are reconciled in the tables below.

(in thousands of dollars)

Change in projected benefit obligation	2008
Benefit obligation at commencement of plan	\$ 4,486
Service cost	2,608
Interest cost	254
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	(3,008)
Acquisition/(divestiture)	-
Benefits paid	(797)
Benefit obligation at end of year	<u>\$ 3,543</u>

Change in plan assets	2008
Fair value of plan assets at commencement of the plan	\$ 2,588
Actual return on plan assets	(2,783)
Acquisition/(divestiture)	-
Employer contribution	2,138
Plan participants' contributions	-
Benefits paid	(797)
Other increase/(decrease)	-
Fair value of plan assets at year end	<u>\$ 1,146</u>

Reconciliation of Funded Status	2008
Accumulated benefit obligation at end of year	\$ 3,543
Projected benefit obligation at end of year	3,543
Fair value of assets at end of year	<u>1,146</u>
Funded status at end of year	<u>\$ (2,397)</u>

The Partnership expects to contribute \$2.6 million to the plan during 2009.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2008:

Discount rate	6.30%
Rate of compensation increase	N/A

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2008:

Discount rate	6.50%
Expected long-term return on plan assets	6.50%
Rate of compensation increase	N/A

15. Goodwill, Other Intangible Assets and Purchased Investment Management Contracts

Below is a summary of the Partnership's goodwill and other intangible assets as of December 31, 2008:

<i>(in thousands of dollars)</i>	Carrying Value
Lease intangibles, net	\$ 14,425
Highland Floating Rate Fund	12,672
Highland Floating Rate Advantage Fund	11,328
Goodwill for Highland Europe	8,020
Licenses	2,021
Patents	1,008
	\$ 49,474

On April 9, 2004, the Partnership purchased the management agreements Highland Floating Rate Fund (the "Floating Rate Fund") and Highland Floating Rate Advantage Fund (the "Advantage Fund"). The combined purchase price for the above agreements was \$24.0 million. The purchase price was allocated among the Purchased Funds pro-rata based on the approximate combined total managed assets of the funds as of the date of purchase. As a result, \$12.7 million of the purchase price was allocated to the Floating Rate Fund and \$11.3 million was allocated to the Advantage Fund.

On January 21, 2000, the Partnership purchased the investment advisory agreement for Prospect Street High Income Shares, Inc. ("PHY"), a diversified, closed-end RIC. The purchase price was approximately \$11.9 million.

On July 31, 2001, the Partnership purchased the investment advisory agreement for Prospect Street Income Shares, Inc. ("CNN"), a diversified, closed-end RIC. The purchase price was approximately \$2.2 million.

On July 21, 2008, PHY and CNN were reorganized into Highland Credit Strategies Fund. The reorganization was based on the respective Funds' relative net asset values as of 4:00 p.m. on Friday July 18, 2008. As PHY and CNN ceased to exist after the reorganization, the prior capitalized costs of \$5.7 million for the purchased investment advisory agreements were recognized into income.

For the remaining purchased investment advisory agreements, the Partnership performed an impairment test under SFAS No. 142. The Partnership's management analyzed market multiples on retail asset managers within the industry as of December 31, 2008 to determine fair value of these assets. The Partnership has determined no impairment charge is necessary for the current year.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

On December 17, 2007, HySky, LLC ("HySky") purchased all of the assets and liabilities of Equitas, LLC for approximately \$3.8 million. Through this purchase, HySky obtained two patents with a purchase price value of \$1.1 million and an FCC license with a value of \$2.2 million. As of December 31, 2008, \$0.3 million in amortization has been recognized on these assets.

During 2007, the companies consolidated by HFREC capitalized \$20.6 million of lease intangibles related to their property acquisitions. As of December 31, 2008, lease intangibles are as follows:

Lease intangibles consist of the following at December 31, 2008:

(in thousands of dollars)

Leasing commissions	\$	1,634
Value of in-place leases		8,495
Tenant relationships		10,426
Total lease intangibles		20,555
Less: Accumulated amortization		(6,130)
Lease intangibles, net	\$	14,425

The amortization expense of lease intangibles is as follows for the five years ending December 31:

(in thousands of dollars)

2009	\$	4,070
2010		2,535
2011		1,123
2012		1,121
2013		1,118

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

16. Consolidated Investment Fund Wind-Downs

Throughout 2008, Credit Strategies Master and Crusader Master were negatively affected by deteriorating conditions in the overall economy and credit markets. These conditions became more severe during the third and fourth quarters of 2008 and generated significant losses on various derivative transactions and repurchase agreements to which Credit Strategies Master and Crusader Master were a party. In addition, certain assets that Credit Strategies Master and Crusader Master purchased on margin through prime brokerage agreements experienced a significant decline in value. In certain cases, Credit Strategies Master and Crusader Master were unable to post the collateral required to secure these losses, and the counterparties provided notice of their intent to terminate the agreements. As a result, access to the credit that Credit Strategies Master and Crusader Master used to manage their investing and financing activities became highly constrained, and in some cases unavailable. In light of these circumstances, the General Partners (the general partner of Highland Credit Strategies Fund, L.P. and the general partner of Highland Crusader Fund, L.P.) and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. concluded, in consultation with the Investment Manager, that it would be in the best interests of their investors to wind down the investment portfolios of Credit Strategies Master and Crusader Master. On October 15, 2008, the Investment Manager notified investors that it would begin the wind-down process immediately. The Investment Manager also restricted subscriptions and the payment of withdrawals to the Feeder Funds effective immediately.

In connection with the wind down, the limited partner interests of the Feeder Funds were compulsorily withdrawn/redeemed as set forth in the terms of the governing documents. A formal plan of liquidation has not been finalized by management, and there are no assurances that investors will realize the remaining equity balance over the course of the wind down of Credit Strategies Master and Crusader Master. The General Partner has suspended payment of distributions, and any outstanding balances with respect to withdrawal and/or redemption requests that were made prior to October 15, 2008, will be made on a pro-rata basis with the amounts owed to investors that have been compulsorily withdrawn/redeemed, unless a plan of distribution dictates otherwise. The equity of the investors for Credit Strategies Master that were compulsorily redeemed was zero. The equity of the investors for Crusader Master that were compulsorily redeemed was \$423.6 million. Future distributions will only be made as the value of Credit Strategies and Crusader Masters' investments are realized and all obligations due to counterparties and service providers of Credit Strategies and Crusader Master and their representative Feeder Funds have been satisfied.

As of December 31, 2008, the estimated value of the net assets available for distribution from Crusader Master and Credit Strategies Master to their Feeder Funds was approximately \$1,092 million and \$163.5 million, respectively. The actual amounts distributed upon completion of the wind down process are inherently uncertain and may differ materially from the partners' capital as of December 31, 2008. The Investment Manager estimates that the wind-down of Credit Strategies Master and Crusader Master could take up to four years to complete. Capital will be distributed as it becomes available in accordance with a plan of distribution, once implemented.

A summary of the significant events that were considered by the General Partners and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. in the decision to wind-down the investment portfolios of Credit Strategies Master and Crusader Master are provided below.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Credit Strategies Master Wind-Down***Total Return Swap***

Since its inception, Credit Strategies Master was invested in a total return swap program that allowed it to gain exposure to bank loans and high yield corporate bonds. During September 2008, the leveraged loan market began to deteriorate, and Credit Strategies Master was required to post cash collateral based on the declining value of the loans held in the swap portfolio. As of September 30, 2008, Credit Strategies Master had met multiple collateral calls.

The fall in leveraged loan prices accelerated dramatically during the first week of October, which resulted in approximately \$43.1 million of additional collateral calls. Credit Strategies Master did not have sufficient sources of liquidity to post all of the required collateral and could not sell assets at prices that reflected their long-term value. Therefore, the counterparty delivered notice of its intent to terminate the swap agreement effective October 15, 2008. The counterparty then offered to (1) sell the remaining assets in the swap portfolio, which would have required Credit Strategies Master to compensate the counterparty for any realized losses in excess of the \$473.3 million of collateral that it had previously posted; or (2) allow Credit Strategies Master to forfeit any rights to the collateral in exchange for terminating all current and future exposures under the swap agreement. Credit Strategies Master elected to forfeit its rights to the collateral and executed a release and waiver with the counterparty. The release and waiver became effective on October 16, 2008.

Repurchase Agreement

Credit Strategies Master entered into a repurchase agreement with a counterparty, which allowed it to gain exposure to high yield corporate bonds and structured credit securities on a leveraged basis. In October 2008, the counterparty contended that Credit Strategies Master failed to meet margin calls that were required due to a decline in the fair value of the assets. The counterparty delivered a formal notice of default and their intent to exercise the rights and remedies available to it.

The repurchase agreement stipulated that the termination values for the underlying assets would be established through bids received from the market or recognized pricing sources. The counterparty contends that it offered the assets for sale through bids-wanted-in-competition. After netting the proceeds received from the sales, the counterparty requested payment from Credit Strategies Master of \$14.3 million. Credit Strategies Master has disputed the liability, and the counterparty filed a lawsuit seeking recovery of the balance (Note 17).

Credit Default Swaps

Credit Strategies Master entered into various credit default swap transactions with a major financial institution for both hedging and speculative purposes. In October 2008, the counterparty provided a notice of termination due to a decline in the value of swaps. Credit Strategies Master disputed the notice on the basis that an event of default had not occurred; however, the counterparty proceeded to terminate the outstanding swap transactions, which resulted in realized losses of approximately \$6.0 million. Credit Strategies Master has a net outstanding claim payable to the counterparty of \$2.6 million.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

Prime Brokerage Agreement

During the first two quarters of 2008, Credit Strategies Master actively purchased equity securities, treasury bonds, investment grade corporate bonds and other liquid assets on margin through a prime brokerage agreement with a major financial institution. The value of the investments declined during the third quarter, and in October 2008, the counterparty issued a notice of default based on a decline the net asset value of the account during the twelve month period ended September 30, 2008. As a result, Credit Strategies Master was required to liquidate the remaining investments in the account and by the end of the year had realized an aggregate net loss of approximately \$68.2 million on the margin transactions.

Crusader Master Wind-Down***Lehman Exposure***

Crusader Master provided protection under a credit default swap agreement that referenced debt issued by Lehman Brothers Holding, Inc. ("Lehman"). Following Lehman's bankruptcy filing on September 15, 2008, Crusader Master was required to post \$39.1 million of cash to satisfy a margin call from the counterparty. In aggregate, Crusader Master realized net losses \$54.6 million of losses under the agreement.

Repurchase Agreement

Crusader Master entered into a repurchase agreement with a counterparty, which allowed it to gain exposure to high yield corporate bonds and structured credit securities on a leveraged basis. In October 2008, the counterparty contended that Crusader Master failed to meet margin calls that were required due to a decline in the fair value of the assets. The counterparty delivered a formal notice of default and its intent to exercise the rights and remedies available to them.

The repurchase agreement stipulated that the termination values for the underlying assets would be established through bids received from the market or recognized pricing sources. The counterparty contends that it offered the assets for sale through bids-wanted-in-competition. After netting the proceeds received from the sales and certain balances to Crusader Master, the counterparty requested payment from Crusader Master of approximately \$50.0 million. Crusader Master has disputed the amount of the liability, and the counterparty filed a lawsuit seeking recovery of the balance.

Prime Brokerage Agreement

During the first two quarters of 2008, Crusader Master actively purchased equity securities, treasury bonds, investment grade corporate bonds and other liquid assets on margin through a prime brokerage agreement with a major financial institution. The value of the investments declined during the third quarter, and in September 2008, the counterparty issued a notice of default based on Crusader Master's alleged failure to meet a margin call. Crusader Master was ultimately required to transfer or liquidate the remaining investments held in the account and by the end of the year had realized an aggregate net loss of approximately \$21.6 million on the margin transactions.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

17. Legal Proceedings

In April 2007, CDO Master Fund entered into a risk sharing agreement structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Financial Partners, L.P. ("HFP"), which is an affiliated entity. The warehouse was financed by a reputable financial institution and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, the counterparty agreed to extend it for one year on March 15, 2008. As a condition of the extension, CDO Master Fund posted \$10.2 million of cash as collateral. In addition, HFC posted certain securities on behalf of CDO Master Fund and HFP. During October and November 2008, the counterparty requested additional collateral calls from CDO Master Fund and HFP totaling \$20 million. Due to liquidity constraints, CDO Master Fund was unable to meet the November call, and the counterparty elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by the counterparty and sold on the open market through bids-wanted-in-competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, the counterparty notified CDO Master Fund that its pro-rate share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount.

On February 24, 2009, the counterparty filed a lawsuit against CDO Master Fund and HFP in the New York State Supreme Court of Manhattan alleging that it had suffered no less than \$745 million in aggregate losses due to the depreciation in value of the warehouse collateral. The Partnership was also named as a party to the lawsuit. The Partnership does not believe it has any liability in this case and has filed a motion to have its name removed from the lawsuit.

Certain consolidated investment funds (collectively, the "Plaintiffs") filed a claim against Deutsche Bank AG and Deutsche Bank Securities, Inc. (collectively, "Deutsche Bank") in Dallas County District Court alleging fraudulent inducement, fraud and breach of contract in connection with three repurchase agreements to which the Plaintiffs and Deutsche Bank were a party. Deutsche Bank subsequently filed a lawsuit against the Plaintiffs in the United Kingdom on November 7, 2008 alleging breach of contract and fraud. The court in the United Kingdom has granted Deutsche Bank an injunction, which compels the Plaintiffs to stay the action in Dallas County Court until the action in the United Kingdom is resolved. The Plaintiffs have filed a motion to appeal the injunction and are waiting for the court to rule. Based on the demand for payment that Deutsche Bank sent prior to the onset of the litigation, the consolidated investment funds have accrued liabilities of \$64.3 million in the accompanying consolidated financial statements.

18. Subsequent Events

In January 2009, the Partnership, certain consolidated investment funds and other affiliated entities were named as parties to a lawsuit claiming breach of fiduciary duties for their alleged failure to comply with obligations owed under a credit agreement. The plaintiff is seeking an unspecified amount of actual damages as well as exemplary damages and attorney's fees. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

Highland Capital Management, L.P.**Notes to Consolidated Financial Statements****December 31, 2008**

On February 4, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent and that it was in the best interest of the fund to liquidate the fund's remaining assets. The proceeds from the asset liquidations will be distributed to the remaining financing counterparties and other senior and trade creditors as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

On March 20, 2009, the Partnership and its Consolidated Investment Funds agreed to terminate the senior secured notes that were issued by HFP. As a result, the Consolidated Investment Funds have been relieved of their obligation to transfer the underlying assets to HFP. As of January 1, 2009, the fair value of the assets securitizing the note was \$233.6 million.

In April 2009, a partner withdrew from the Partnership. The departing partner's Partnership interest is to be purchased by the Partnership or the remaining partners.

In April 2009, HYMF, Inc. filed a lawsuit in the New York State Court against the Partnership and certain consolidated investment funds (collectively "the Defendants"). The lawsuit alleges that the Defendants breached their contractual and fiduciary duties by failing to return HYMF's original investment in the consolidated investment funds. The Defendants believe they acted in accordance with the provisions of their partnership agreements and intend to vigorously defend against the lawsuit. At this time, discovery has not yet been initiated, and management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

In April 2009, the Partnership and certain consolidated investment funds (collectively "the Plaintiffs") filed a lawsuit in Texas District Court against HYMF, Inc. The lawsuit states that HYMF, Inc. failed to properly terminate the prepaid forward contract and accreting strike option. The Plaintiffs believe they acted in accordance with the provisions of the prepaid forward and accreting strike option contracts. At this time management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount of range of potential loss with any reasonable degree of certainty.

In April 2009, Real Estate Fund received a forbearance agreement with respect to the REF credit agreement. The lender allowed for the forbearance of any prior obligations until October 15, 2009 where at such time, the facility is due in full.

During the first quarter of 2009, certain investors in Highland Credit Strategies Fund, Ltd. filed lawsuits in response to the decision to wind-down Credit Strategies Master's investment portfolio (Note 16). Each of these investors is seeking to recover the outstanding balances due under the redemption requests that they submitted prior to the announcement of the wind-down. They have also made various claims, including breach of fiduciary duties, committed negligence, tortious interference with the payment of redemption amounts, and/or committed fraud. Both the Partnership and Highland Credit Strategies Fund, Ltd. have been named as parties to the lawsuits. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2008

In July 2009, the Partnership amended and restated its Credit Agreement (the "2009 Credit Agreement"). All amounts borrowed under the 2009 Credit Agreement are due on July 21, 2011. For base rate loans, interest is charged at a rate of 4% plus the highest of (i) the prime rate, (ii) 2% plus the Federal Funds Rate, and (iii) 2% plus LIBOR. For LIBOR loans, interest is charged at a rate of 5% plus LIBOR. For base rate loans, interest is payable on the last business day of each calendar month, as well as the maturity date. For LIBOR loans, interest is payable on the last day of each calendar month, as well as the maturity date.

In July 2009, certain investors in Highland Credit Strategies Fund, L.P. and Highland Credit Strategies Fund, Ltd. filed a lawsuit seeking damages for alleged rescission, fraud, negligent misrepresentation, breach of fiduciary duty, unjust enrichment, various violations of Massachusetts general law, and aiding and abetting fiduciary duty. The Partnership, Highland Credit Strategies Fund, L.P., Highland Credit Strategies Fund, Ltd., employees of the Partnership, J.P. Morgan Investor Services Co., and J.P. Morgan Hedge Fund Services (Bermuda), Ltd. have been named as parties to the lawsuit. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree or certainty.

**Supplemental Information
Highland Capital Management, L.P.
Unconsolidated Balance Sheet and Income
Statement (Unaudited)
December 31, 2008**

Highland Capital Management, L.P.
Supplemental Unconsolidated Balance Sheet (unaudited)
December 31, 2008

(in thousands of dollars)

Assets

Current assets

Cash and cash equivalents	\$	10,725
Restricted cash		1,400
Investments, at fair value (cost \$141,819)		75,821
Equity method investees		36,149
Management and incentive fees receivable		19,715
Due from brokers		8,189
Other current assets		29,076
Deferred incentive fees receivable		25,997
Purchased investment management contracts		24,000
Goodwill and other intangible assets, net		388
Fixed assets and leasehold improvements, net of accumulated depreciation of \$6,399		9,511

Total assets	\$	240,971
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Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	12,992
Accrued and other liabilities		69,369
Debt and notes payable		150,875
Long-term incentive plan		6,945
Total liabilities		240,181

Partners' capital		790
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Total liabilities and partners' capital	\$	240,971
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Should be read in conjunction with audited financial statements.

Highland Capital Management, L.P.
Unconsolidated Statement of Income (unaudited)
Year Ended December 31, 2008

(in thousands of dollars)

Revenue

Management fees	\$ 201,660
Incentive fees/allocations	870
Interest and investment income	4,009
Other income	11,278
Total revenue	<u>217,817</u>

Operating expenses

Compensation and benefits	(1,970)
Professional fees	24,717
Investment and research consulting	2,281
Amortization and depreciation	2,191
Interest expense	9,568
Net depreciation on deferred incentive fees	150,281
Other operating expenses	32,614
Total expenses	<u>219,682</u>
Income/(loss) before investment and derivative activities	<u>(1,865)</u>

Realized and unrealized gain/(loss) from investments and derivative transactions:

Net realized gain/(loss) on sale of investment transactions	20,156
Net change in unrealized gain/(loss) on investments	(490,052)
Total realized and unrealized gain/(loss) from investments and derivative transactions	<u>(469,896)</u>

Realized and unrealized earnings from equity method investees:

Net realized earnings from equity method investees	(128,462)
Net unrealized earnings from equity method investees	(7,038)
Total realized and unrealized earnings from equity method investees	<u>(135,500)</u>
Net income	<u>\$ (607,261)</u>

Should be read in conjunction with audited financial statements.

EXHIBIT 64

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

**Consolidated Financial Statements
And Supplemental Information
With Report of Independent Auditors
Year Ended December 31, 2009**

Highland Capital Management, L.P.
Contents
December 31, 2009

	Page
Report of Independent Auditors	1
Audited Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Changes in Partners' Capital.....	4
Consolidated Statement of Cash Flows	5
Notes to Consolidated Financial Statements	7
Supplemental Information	43

Report of Independent Auditors

To the General and Limited Partners of
Highland Capital Management, L.P.:

In our opinion, the accompanying consolidated balance sheet and the related consolidated statements of income, of changes in partners' capital and of cash flows (hereinafter referred to as the "financial statements") present fairly, in all material respects, the consolidated financial position of Highland Capital Management, L.P. (the "Partnership") and its subsidiaries at December 31, 2009, and the consolidated results of their operations, the changes in their partners' capital, and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The supplemental unconsolidated balance sheet and statement of income are presented for purposes of additional information, and are not a required part of the consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and, in our opinion, is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

May 21, 2010

Highland Capital Management, L.P.
Consolidated Balance Sheet
December 31, 2009

(in thousands)

Assets

Cash and cash equivalents	\$	50,246
Restricted cash		248,044
Investments, at fair value (cost \$3,953,077)		2,013,858
Restricted investments, at fair value (cost \$5,245)		5,508
Unrealized gains on derivative contracts		1,045
Management and incentive fees receivable		16,783
Due from brokers		8,784
Other assets		45,712
Deferred incentive fees receivable		28,891
Purchased investment management contracts		24,000
Goodwill and other intangible assets, net		8,020
Fixed assets and leasehold improvements, net of accumulated depreciation of \$9,536		14,891
Total assets	\$	2,465,782

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	4,451
Securities sold, not yet purchased (proceeds \$15,093)		21,406
Unrealized losses on derivative contracts (proceeds \$2,563)		103,650
Withdrawals payable		54,631
Interest payable		3,737
Due to brokers		394,359
Due to brokers for securities purchased not yet settled		115,890
Accrued and other liabilities		57,221
Secured borrowing		61,842
Debt and notes payable		279,509
Long-term incentive plan		2,858
Total liabilities		1,099,554
Non-controlling interest		1,358,360
Commitments (Note 10)		
Partners' capital		7,868

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Income
Year Ended December 31, 2009

(in thousands)

Revenue:

Management fees	\$	91,920
Incentive fees/allocations		1,550
Interest and investment income		168,134
Other income		17,610
Total revenue		<u>279,214</u>

Expenses:

Compensation and benefits		52,163
Professional fees		36,942
Investment and research consulting		838
Amortization and depreciation		5,064
Interest expense		52,607
Other expenses		31,134
Total expenses		<u>178,748</u>

Income before investment and derivative activities		<u>100,466</u>
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Realized and unrealized gain/(loss) from investment transactions:

Net realized loss on sale of investment transactions		(1,001,610)
Net change in unrealized gain on investment transactions		1,214,188
Total realized gain from investment transactions		<u>212,578</u>

Unrealized earnings from equity method investees:

Net unrealized earnings from equity method investees		2,377
Total unrealized earnings from equity method investees		<u>2,377</u>

Net income		315,421
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Net income attributable to the non-controlling interest		<u>(315,498)</u>
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Net loss attributable to Highland Capital Management, L.P.	\$	<u>(77)</u>
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2009

<i>(in thousands)</i>	General Partner	Limited Partners	Total
Partners' capital, December 31, 2008	<u>\$ 467</u>	<u>\$ 323</u>	<u>\$ 790</u>
Net loss	-	(78)	(78)
Partner contributions	68	12,509	12,577
Partner distributions	<u>(29)</u>	<u>(5,392)</u>	<u>(5,421)</u>
Partners' capital, December 31, 2009	<u>\$ 506</u>	<u>\$ 7,362</u>	<u>\$ 7,868</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Cash Flows
Year Ended December 31, 2009

(in thousands)

Cash flows from operating activities:

Net income	\$ 315,420
Adjustment to reconcile net income to cash and cash equivalents provided by operating activities:	
Cash provided by operating activities:	
Net realized loss on investments and derivative contracts	1,001,610
Net unrealized loss on investments and derivative contracts	(1,214,188)
Net unrealized gain from equity method investees	(2,377)
Depreciation and amortization	2,728
Changes in assets and liabilities:	
Restricted cash	103,696
Management and incentive fee receivable	4,677
Deferred incentive fees	(2,894)
Other assets	27,507
Due from brokers	31,439
Accounts payable	(9,318)
Accrued and other liabilities	(154,724)
Due to brokers for unsettled trades	145,957
Interest payable	3,737
Withdrawals payable	54,631
Long-term incentive plan	(4,087)
Obligations to return collateral	(161,882)
Net cash provided by operating activities	<u>141,932</u>

Cash flows from investing activities:

Purchase of fixed assets and leasehold improvements, net	16,431
Purchases of investments	(397,439)
Proceeds from dispositions of investments	392,040
Net cash provided by investing activities	<u>11,032</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
Consolidated Statement of Cash Flows
Year Ended December 31, 2009

(in thousands)

Cash flows from financing activities:

Payments on long-term debt	(8,381)
Net payments on secured borrowings	(66,026)
Due to brokers	(73,451)
Capital contributions from minority interest investors of consolidated entities	62,342
Capital withdrawals by minority interest investors of consolidated entities	(72,300)
Partner distributions	(1,421)

Net cash used in financing activities	<u>(146,660)</u>
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Net decrease in cash and cash equivalents	(4,728)
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Cash and cash equivalents

Beginning of year	43,942
End of year	<u>\$ 39,214</u>

Supplemental disclosure of cash flow informaton:

Interest paid during the year	\$ 42,124
Non-cash distributions to partners	4,000

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment advisor under the Investment Advisors Act of 1940 that manages collateralized loan obligations ("CLOs"), registered investment companies ("RICs"), hedge funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is 100% owned by senior management of the Partnership.

As of December 31, 2009, the Partnership provided investment advisory services in accordance with management agreements for twenty-nine CLOs, nine RICs, four separate accounts, one master limited partnership, and twelve hedge fund structures, with total fee-earning assets under management of approximately \$24.5 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment of 50% or more and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether, if by design, an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIE's (collectively referred to as the "Consolidated Investment Funds"). The Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations:

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005;
- Highland Credit Opportunities CDO, L.P. ("Credit Opportunities Master"), a Delaware limited partnership that commenced operations on December 29, 2005;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore") a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore") a Delaware limited partnership that commenced operations on September 2, 2008; and
- Highland Restoration Capital Partners Master, L.P. ("Restoration Master") a Delaware limited partnership that began commenced on September 2, 2008.

Consolidation of Variable Interest Entities

The Partnership consolidated the following VIE's as it is the primary beneficiary:

- Highland Financial Corporation ("HFC"), a company incorporated on February 28, 2006 under the laws of the state of Delaware;
- Highland Financial Real Estate Corporation ("HFREC"), a company incorporated on March 15, 2006 under the laws of the state of Maryland; and
- HCM Trident (Delaware) Corporation ("HCM Trident"), a company incorporated on July 3, 2007 under the laws of the state of Delaware.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Management Europe, Ltd. ("Highland Europe"), a company organized in the United Kingdom and purchased by the Partnership on April 6, 2005;
- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 100% interest in Highland Employee Retention Assets, LLC, a Delaware limited liability company that commenced operations on October 26, 2009;
- 86.5% interest in HySky Communications, LLC, a Delaware limited liability company that commenced operations on December 22, 2006; and
- 84.5% interest in HE Capital, LLC, a Delaware limited liability company that commenced operations on March 22, 2007.

Deconsolidation of Hedge Funds

The following funds have been deconsolidated for 2009 as the limited partners have been granted substantive participating rights:

- Highland Select Equity Fund, L.P., a Delaware limited partnership that commenced operations on January 1, 2002;
- Highland Equity Focus Fund, L.P., a Delaware limited partnership that commenced operations on September 1, 2002; and
- Highland Capital Real Estate Fund, L.P., a Delaware limited partnership that commenced operation on April 1, 2002.

All significant interpartnership and intercompany accounts and transactions have been eliminated in consolidation of all of the aforementioned consolidated entities. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the AICPA Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Investment Transactions

Investment transactions are recorded on a trade date basis. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

Fair Value Measurement

Fair value represents the price that would be received upon the sale of an asset or paid upon the transfer of a liability in an orderly transaction between market participants at the measurement date (exit price). Assets and liabilities measured at fair value are classified into one of the following categories:

- Level 1 – Valuation based on quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Investment Funds have the ability to access as of

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.

- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on models in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure the fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Investment Funds use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being re-classified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates.

Whenever possible, the Partnership and its Consolidated Investment Funds use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Investment Funds develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

As of December 31, 2009, the Partnership and its consolidated entities investments consisted of floating rate syndicated bank loans, high yield corporate bonds, CLO securities, private placements, private placement real estate debt and equity, life settlement contracts and common and preferred equity securities. In addition, the consolidated entities are parties to various credit default swaps. The majority of these financial instruments are not listed on national securities exchanges, and management is required to use significant judgment to estimate their values.

The fair value of the loans, corporate bonds and CLO securities are generally based on quotes received from brokers or independent pricing services. Due to the recent disruption in the credit markets, an increasing number of these quotes are derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades. The policy of the Partnership and its consolidated subsidiaries is to classify loans and bonds that are priced in this manner as Level 3 assets because the markets in which they trade are not active and the inputs used by the brokers and pricing services are not readily observable. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

The consolidated entities private placement real estate investments include equity interests in limited liability companies and debt issued by entities that invest in commercial real estate. The fair value of these investments is based on internal models developed by the Partnership. The significant inputs to the models include cash flow projections for the underlying properties and appraisals performed by independent valuation firms. Since these inputs are not readily observable, the investments are classified as Level 3 assets.

Common and preferred equity securities traded on national exchanges are valued at their closing prices as of December 31, 2009. These securities are classified as Level 1 assets. The consolidated entities also hold certain equity securities for which no active market exists. The value of these securities, which are classified as Level 3 assets, is based on a combination of broker quotes and internal valuation models.

Life settlement contracts are valued using mortality tables and interest rate assumptions that are deemed appropriate for the demographic characteristics of the parties insured under the policies. Since these inputs are not readily observable, they are classified as Level 3 assets.

The fair value of credit default swaps is based on quotes received from an independent pricing service. The inputs used to derive the quotes are not readily observable and are therefore classified as Level 3.

Refer to Note 5 for the required fair value disclosures.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2009, the Partnership and its consolidated entities recognized management and incentive fees of approximately \$92 million, and \$1.6 million, respectively. The Partnership recognized approximately \$2.9 million of appreciation on incentive fees previously deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the consolidated statement of income.

Dividends, Interest and Expense Recognition

Dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. Operating expenses, including interest on securities sold short, not yet purchased are recorded on the accrual basis, if any incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. The following subsidiaries are subject to these provisions: Highland Europe, HFC and HFREC.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

The Consolidated Investments Funds are not subject to federal income taxes and therefore no provision has been made in the accompanying consolidated financial statements.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Foreign cash of \$4.1 million is included in the cash and cash equivalents on the consolidated balance sheet.

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Total Return Swaps

A total return swap agreement is a two-party contract under which an agreement is made to exchange returns from predetermined investments or instruments. The gross returns to be exchanged or "swapped" between the parties are calculated based on a "notional amount," which is valued monthly according to the valuation policy mentioned above to determine each party's obligation under the contract.

Risks could arise from entering into swap agreements from the potential inability of counterparties to meet the terms of their contracts, and from the potential inability to enter into a closing contract. The Partnership's Consolidated Investment Funds recognize all cash flows received (paid) or receivable (payable) from swap transactions on a net basis as realized or unrealized gains or losses in the consolidated statement of income. The Partnership and the Consolidated Investment Funds are charged a finance cost by counterparties with respect to each agreement. The finance cost is reported as part of the realized or unrealized gains or losses.

Credit Default Swaps

As discussed in Note 6, under a credit default swap agreement two parties agree to transfer the credit exposure of an asset between one another. The seller of the swap guarantees the credit worthiness of a specific instrument by agreeing to pay the buying party a specific amount (generally par value) in the event that the instrument defaults.

At December 31, 2009, the Partnership's Consolidated Investment Funds were party to credit default swaps in which it acts as the guaranteeing party. In the event that any of the underlying instruments default prior to the expiration of the agreements, the Consolidated Investment Funds are obligated to pay the swap counterparty the par value of the specific instrument. The Consolidated Investment Funds collect a fee based on the size of the underlying positions which are treated as realized gains once received. The difference between the current market value of the swaps and the original price of the swap is reported as an unrealized gain or loss.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand. Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash or securities. The amount of the required deposit, which earns interest, is

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender.

Securities Loaned

The Partnership's Consolidated Investment Funds may lend securities to their financing counterparties for margin. The lending entity receives the interest associated with the securities loaned. The loans are secured by the fair value of the securities. Gains or losses in the fair value of the securities loaned that occur during the term of the loan will be for the account of the lender. The lender has the right under the lending agreement to recover the securities from the prime brokers on demand. The lender pays a fee to the broker for the cash collateral received. This is accounted for as interest expense. A credit risk exists to the lender under this type of transaction to the extent that the counterparty defaults on its obligation to return the securities loaned.

Options

The Partnership's Consolidated Investment Funds purchase and sell call and put options on equity securities and equity indices as part of its overall portfolio management strategies. Purchased call or put options may be used to obtain economic exposure equivalent to a long or short position, respectively, or to hedge existing or anticipates portfolio positions. Certain options contracts are index options, under which amounts due or payable upon exercise are settled entirely in cash based on the difference between the value of the index at maturity and its contract (or strike) value. The potential risk of loss for purchased options is limited to the premium paid.

The premium paid for the purchase of an option is included in the consolidated balance sheet as an investment and subsequently marked-to-market to reflect the current value of the option. If an option expires on the stipulated expiration date, the Consolidated Investment Funds realize a loss equal to the cost of the option. If the Consolidated Investment Funds enter into a closing sale transaction, the Consolidated Investment Funds realize a gain or loss, depending on whether the proceeds from the closing sale transaction are greater or less than the cost of the option. If the Consolidated Investment Funds exercise a call option, the cost of the securities acquired upon exercise is increased by the premium paid to buy the call. If the Consolidated Investment Funds exercise a put option, it realizes a gain or loss from the sale of the underlying security and the proceeds from such sale are decreased by the premium originally paid.

Margin Transactions

In order to obtain more investable cash, the Partnership and its subsidiaries may use various forms of leverage including purchasing securities on margin. Such leverage may allow the Partnership and its subsidiaries to increase net assets at a greater rate during increasing markets, but also may lead to a more rapid decrease in net assets in a declining market. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2009. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. Withdrawals payable may be treated as capital for purposes of allocations of gains/losses pursuant to the partnerships' governing documents. At December 31, 2009, the Consolidated Investment Funds had withdrawals payable of \$36.2 million.

Use of Estimates

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates.

Foreign Currency Transactions

The Partnership's subsidiary Highland Europe uses British Pounds as its functional currency and enters into transactions in multiple foreign currencies. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2009. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the consolidated statement of income.

The Consolidated Investment Funds do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments*.

Financial Instruments

The Partnership and its consolidated entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Life Settlement Contracts

One of the Partnership's Consolidated Investment Funds invests in life settlement contracts (the "Policies"). The Policies are reflected as a component of "Investments, at fair value" in the Consolidated Statement of Assets, Liabilities and Partners' capital. Realized and unrealized gains/ (losses) on the Policies are reflected in the Consolidated Statement of Income. Cash flows used to purchase the Policies are reflected as a component of "Purchases of Investments" in the Consolidated Statement of Cash Flows.

The Consolidated Investment Funds were invested in 119 policies at December 31, 2009 with a total face value of approximately \$1 billion.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Goodwill and Other Intangible Assets

The Partnership purchased Highland Europe on April 6, 2005. Goodwill represents the amount paid in excess of the fair value of the assets of Highland Europe at the date of acquisition. No goodwill impairments existed as of December 31, 2009.

The Partnership has obtained the rights to the management contracts of certain RICs it manages by acquiring the underlying contracts from the predecessor investment manager. The Partnership performs an impairment test on the purchased investment contracts on an annual basis. Any depreciation in the value of the purchased investment management contracts are accounted for in the year when it occurs. The carrying values of the purchased investment contracts are not adjusted for appreciation. The goodwill and purchased investment management contracts are indefinite-lived assets and are not amortized.

Recently Issued Accounting Standards & Interpretations

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

In September 2009, the FASB issued ASU 2009-06, *Income Taxes (Topic 740)—Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities* (formerly proposed as FASB Staff Position No. 48-d, *Application Guidance for Pass-Through Entities and Tax-Exempt Not-for-Profit Entities and Disclosure Modifications for Nonpublic Entities*), which amended Accounting Standards Codification Subtopic 740-10, *Income Taxes – Overall*. ASU 2009-06 clarifies that an entity's assertion that it is a pass-through entity is a tax position and should be assessed in accordance with Subtopic 740-10. Additionally, the ASU provides implementation guidance on the attribution of income taxes to entities and owners. The revised guidance is effective for periods ending after September 15, 2009. The adoption of ASU 2009-06 did not have a material impact on the Partnership's financial position or results of operations at the date of adoption.

In June 2009, the FASB issued Statement of Financial Accounting Standards ("SFAS") No. 168, *The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles, a replacement of FASB Statement No. 162* (subsequently codified into FASB ASC Topic 105) which established the FASB Accounting Standards Codification ("ASC" or the "Codification") as the single source of authoritative accounting principles for U.S. GAAP issued by the FASB. The Codification supersedes all existing non-SEC accounting and reporting standards and subsequent to adoption, the FASB will issue new standards in the form of ASUs, and no longer as SFASs, FASB Staff Positions or Emerging Issues Task Force Abstracts. The Codification is effective for reporting periods ending on or after September 15, 2009. The adoption of the Codification did not have any impact on the Partnership's financial position or results of operations at the date of adoption.

In April 2009, the FASB issued guidance on determining fair value when the volume and level of activity for an asset or liability has significantly decreased and identifying transactions that are not orderly (originally issued as FASB Staff Position SFAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly*, and subsequently codified within FASB ASC Topic 820). The guidance provides additional guidance to expand on the factors that should be considered in estimating fair value when there has been a significant decrease in market activity for an asset or liability. The guidance is effective for interim and annual periods ending after June 15, 2009. The adoption did not have any impact on the Partnership's financial position or results of operations at the date of adoption.

In December 2007, the FASB issued guidance on noncontrolling interests in consolidated financial statements (originally issued as SFAS No. 160, *Noncontrolling Interests in Consolidated Financial Statements—an amendment of ARB No. 51*, and subsequently codified within FASB ASC Topic 810). The guidance requires a company to clearly identify and present ownership interests in subsidiaries held by parties other than the company within the equity section of the consolidated financial statements. Additionally, Topic 810 requires: (i) the amount of consolidated net income (loss) attributable to the controlling and the noncontrolling interests to be clearly identified and presented on the face of the consolidated statements of operations; (ii) acquisitions of noncontrolling interest to be accounted for as equity transactions with no step-up to fair value; (iii) when a subsidiary is deconsolidated, any retained noncontrolling interest and the gain or loss upon deconsolidation to be measured at fair value; and (iv) losses to be allocated to noncontrolling interest regardless of whether cumulative losses have exceeded the noncontrolling interest in the subsidiary's capital. The guidance is effective for reporting periods beginning on or after December 15, 2008. The adoption of the revised guidance did not have any impact on the Partnership's financial position or results of operations at the date of adoption.

In June 2009, the FASB issued amended guidance on accounting for transfers of financial assets (originally issued as SFAS No. 166, *Accounting for Transfers of Financial Assets, an amendment of FASB Statement No. 140*, and subsequently reissued as ASU 2009-16, *Accounting for Transfers of*

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Financial Assets). The amendments were issued to improve the information that a reporting entity provides in its financial statements about a transfer of financial assets, the effects of a transfer on its financial statements, and a transferor's continuing involvement, if any, in transferred financial assets. The amendments eliminate the concept of qualifying special purpose entities from U.S. GAAP. These entities will now be evaluated for consolidation in accordance with the applicable consolidation criteria. The amendments are effective for reporting periods beginning on or after November 15, 2009. The adoption of ASU 2009-16 is not expected to have any impact on the Company's financial position or results of operations.

In June 2009, the FASB issued amended guidance on accounting for variable interest entities (originally issued as SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)*, and subsequently reissued as ASU 2009-17, *Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities*). The amendments were issued to address the effects of the removal of the concept of qualifying special purpose entities from U.S. GAAP and to address concerns regarding the consolidation of variable interest entities. ASU 2009-17 will require a qualitative approach rather than a quantitative approach when determining the primary beneficiary of a variable interest entity and will also change the criteria by which an enterprise determines whether it is the primary beneficiary of an entity. In addition, the amended interpretation will no longer consider removal rights when determining whether an entity is a variable interest entity and whether to consolidate a variable interest entity as the primary beneficiary unless those rights are held by a single party. ASU 2009-17 is effective for reporting periods beginning on or after November 15, 2009. The adoption of ASU 2009-17 is not expected to have any impact on the Partnership's financial position or results of operations, as substantially all of the entities in which it holds variable interests will qualify for the scope deferral included in ASU 2010-10, *Amendments to Statement 167 for Certain Investment Funds*.

In February 2010, the FASB issued ASU 2010-10, *Amendments to Statement 167 for Certain Investment Funds*. ASU 2010-10 defers the effective date of ASU 2009-17 for certain investment entities to allow the FASB to work with the International Accounting Standards Board ("IASB") in developing consistent consolidation guidance. The deferral will apply to a reporting entity's (i.e. investment manager's) interest in an entity (i) that has the attributes of an investment company or (ii) for which it is industry practice to apply measurement principles for financial reporting purposes that are consistent with those followed by investment companies. The deferral in ASU 2010-10 would not apply in situations in which a reporting entity has the explicit or implicit obligation to fund actual losses of an entity that could potentially be significant to the entity. ASU 2010-10 is effective for annual reporting periods beginning on or after November 15, 2009, and for interim periods within that first annual reporting period. The adoption of ASU 2010-10 is not expected to have any impact on the Company's financial position or results of operations, as adoption of the deferral results in the Company continuing to apply consolidation and disclosure requirements in effect during prior periods.

In September 2009, the FASB issued Accounting Standards Update ("ASU") 2009-12, *Fair Value Measurements and Disclosures (Topic 820)—Investments in Certain Entities That Calculate Net Asset Value Per Share (or Its Equivalent)* which amended Accounting Standards Codification Subtopic 820-10, *Fair Value Measurements and Disclosures—Overall*. The amended guidance offers investors a practical expedient for measuring the fair value of investments in certain entities that calculate net asset value per share (NAV). The ASU is effective for the first reporting period (including interim periods) ending after December 15, 2009. The Partnership has not yet determined the impact, if any, that the implementation of ASU 2009-12 would have on our consolidated results of operations or financial condition.

3. Fixed Assets and Leasehold Improvements

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2009:

(in thousands)

Buildings	\$ 10,119
Leasehold improvements	4,060
Computer and equipment	3,448
Furniture and fixtures	3,185
Computer software	2,287
Land	1,328
Accumulated depreciation	<u>(9,536)</u>
	<u>\$ 14,891</u>

The Partnership and its consolidated entities are depreciating fixed assets as follows:

	<u>Period</u>
Buildings	29 - 40 years
Leasehold improvements	Lease term
Computer and equipment	5 years
Furniture and fixtures	7 years
Computer software	3 years

Depreciation expense in 2009 totaled approximately \$4.8 million for the Partnership and its subsidiaries.

The Partnership and its consolidated entities had approximately \$16.4 million of capital expenditures in 2009.

4. Investments

Detailed below is a summary of the Partnership and its subsidiaries' investments at December 31, 2009:

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

<i>(in thousands)</i>	Amortized Cost/Cost	Fair Value
Investments in floating rate syndicated bank loans	\$ 937,360	\$ 365,304
Investments in fixed rate syndicated bank loans	6,695	7,822
Investments in fixed income securites	948,995	528,096
Investments in equity securities	1,277,263	761,508
Investments in life settlement contracts	242,472	144,952
Investments in CLOs (mezz tranches)	83,369	37,254
Investments in CLOs (residual CLO equity tranches)	150,381	11,084
Investments in closed-end mutual funds	13,238	12,558
Investments in private placement real estate	132,373	22,372
Investments in limited partnerships	160,133	119,180
Investments in warrants	6,076	9,236
Total investments	<u>\$ 3,958,355</u>	<u>\$ 2,019,366</u>
Net unrealized gain/loss on credit default swaps	<u>\$ (2,563)</u>	<u>\$ (102,605)</u>
	Proceeds	Fair Value
Securities sold, not yet purchased	<u>\$ 15,093</u>	<u>\$ 21,406</u>

Affiliated Investments

Investments in Residual CLO Equity and Mezzanine Tranches

Investments in affiliated residual CLO equity tranches primarily represent tranches of CLOs for which the Partnership and Highland Europe provide investment advisory services. The Consolidated Investment Funds receive quarterly distributions based on the excess interest after paying the stated interest distributions to the senior and mezzanine note holders, and paying the investment manager, trustee and other related fees. A portion of these distributions are amortized against the cost basis of the investment based on the actual cash distributions received during the year versus the total expected remaining cash distributions to the residual CLO equity tranche. The remainder of the distribution is recorded as interest income.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

Investments in residual equity and mezzanine tranches of CLOs are not actively traded. The estimated fair value of the CLOs is derived from broker quotes and valuation models. The estimated fair value of these investments as presented in the consolidated balance sheet does not necessarily represent the amount that could be obtained from the sale of these investments. Changes in the credit quality or the performance of the underlying collateral, the availability and price of assets available for reinvestment, interest rates and/or the interest rate curve, or other market conditions could have a material impact on the estimated fair value of the investments.

Investment in Highland Special Situations Fund

The Partnership invests in Highland Special Situations Fund ("HSSF"), a diversified, closed end RIC for which the Partnership provides investment advisory services. As of December 31, 2009, the market value of the Partnership's investment in HSSF was approximately \$3 million. During the year ended December 31, 2009, the Partnership accrued approximately \$0.2 million in dividends from HSSF.

Investment in Highland Long/Short Equity Fund

The Partnership invests in Highland Long/Short Equity Fund ("HEOF"), a diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2009, the market value of the Partnership's investment in HEOF was approximately \$0.2 million.

Investment in Highland Healthcare Fund

The Partnership invests in Highland Healthcare Fund ("HHF"), a non-diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2009, the market value of the Partnership's investment in HHF was approximately \$3.6 million.

Investment in Highland Credit Strategies Fund

The Partnership invests in Highland Credit Strategies Fund ("HCF"), a diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2009, the market value of the Partnership's investment in HCF was approximately \$4 million. During the year ended December 31, 2009, the Partnership received approximately \$0.1 million in dividends from HCF.

Prepaid Forward Contract

On July 28, 2006, Highland Multi-Strategy Onshore Master Subfund I, LLC ("Subfund") and Barclays Bank PLC ("Barclays") entered into a prepaid forward contract. The Partnership and affiliates redeemed approximately \$312.7 million of a reference portfolio, which was comprised of the following basket of funds advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund and Select Equity Fund. Barclays simultaneously contributed approximately \$312.7 million as a hedge to its obligation under the prepaid forward contract.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

Barclays was prepaid approximately \$156.3 million, or one-half of the reference portfolio value at initiation of the transaction. A notional amount, (the initial reference portfolio value less the amount prepaid), accretes interest to Barclays at monthly LIBOR plus 0.90% per annum.

A collateral account in the amount of approximately \$53.2 million was established to further secure the transaction. Due to extreme market volatility, all of the underlying holdings in the collateral account were sold during 2008.

The term of the prepaid forward contract was three years and allowed for net settlement upon termination. The contract expired on July 31, 2009 whereby Barclays was to remit in cash the greater of the difference between the reference portfolio value and the notional amount, as valued on the scheduled termination date, or zero. Upon expiration, Barclays was not obligated to make a cash payment to the Subfund.

On October 7, 2008, Barclays submitted a notice of early termination for the prepaid forward contract. Refer to Note 17 for further discussion.

Accreting Strike Option

On February 28, 2007, Highland Multi-Strategy Onshore Master Subfund II, LLC entered into an Accreting Strike Option ("ASO") with Barclays. The ASO's value is based on the following basket of funds ("the reference portfolio") advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund, Select Equity Fund and Credit Opportunities Domestic Feeder. The value of the reference portfolio at inception was approximately \$250.2 million

Barclays was paid a \$71.4 million premium on the option. The strike price, (the initial reference portfolio value less the premium paid), accretes interest to Barclays at monthly LIBOR plus 1.4% per annum. As of December 31, 2009, the strike price was approximately \$179.6 million.

The term of the accreting strike option is five years and allows for net settlement upon termination. At contract expiration, Barclays will remit in cash the greater of the difference between the reference portfolio value and the strike price, as valued on the scheduled termination date, or zero. As of December 31, 2009, the ASO did not have a positive net fair value.

Detailed below is a summary of the transaction as of December 31, 2009:

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

(in thousands)

Reference Portfolio	Fair Value
Select Equity Fund	\$ 110,491
Crusader Domestic Feeder	12,156
Equity Focus Fund	6,974
Credit Opportunities Domestic Feeder	3,238
Real Estate Fund	-
Highland CDO Opportunity Fund, Ltd.	-
Credit Strategies Domestic Feeder	-
Reference portfolio total	132,859
Notional amount	(179,563)
Fair value of accreting strike option	(46,704)

On October 13, 2008, Barclays served notice of early termination for the accreting strike option. Refer to Note 16 for further discussion.

Investment in Highland Employee Retention Assets LLC ("HERA")

During 2009, the Partnership established HERA, an employee deferred compensation vehicle. On October 26, 2009, approximately \$12.1 million of assets were transferred to HERA. As of December 31, 2009, the Partnership's equity investment in HERA was approximately \$11 million.

5. Fair Value of Financial Instruments

As discussed in Note 2, the Partnership and its consolidated entities categorize investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Investment Fund's investments and derivatives at December 31, 2009 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2009:

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

(in thousands)

	Level 1	Level 2	Level 3	Estimated Fair Value at 12/31/09
Loans	\$ -	\$ 16,048	\$ 357,077	\$ 373,125
Bonds & Asset Backed Securities	-	148,511	402,020	550,531
Collateralized loan obligations	-	-	16,001	16,001
Rights & Warrants	3,275	-	4,995	8,270
Private placement real estate	-	-	12,180	12,180
Limited partnership interest	11,552	-	129,372	140,924
Common equity securities	133,123	-	245,612	378,735
Mutual Funds	9,605	-	2,952	12,557
Privately held equity	-	-	246,090	246,090
Life Settlement Contracts	-	-	144,952	144,952
Preferred stock	-	-	136,000	136,000
Common stock sold short	(21,406)	-	-	(21,406)
Credit Default Swaps	-	-	(102,605)	(102,605)
Total	\$ 136,149	\$ 164,559	\$ 1,594,646	\$ 1,895,354

The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2009:

(in thousands)

	Estimated Fair Value as of December 31, 2008	Purchases, Sales and Maturities, Net Level 3	Net Transfers In/(Out) of Level 3	Net Realized Losses	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2009
Loans	\$ 337,962	\$ 32,004	\$ 22,878	\$ (49,165)	\$ 13,398	\$ 357,077
Bonds & Asset Backed Securities	469,197	(122,399)	(6,469)	(241,960)	303,651	402,020
Collateralized loan obligations	123,730	(57,985)	-	(385,826)	336,082	16,001
Rights & Warrants	192	(871)	(140)	(5)	5,819	4,995
Private placement real estate	68,721	(12,461)	14,100	(9,337)	(48,843)	12,180
Limited partnership interest	137,544	(13,274)	120	6,002	(1,020)	129,372
Common equity securities	304,595	(10,149)	-	(14,434)	(34,400)	245,612
Mutual Funds	2,094	-	-	-	858	2,952
Privately held equity	109,543	(45,119)	-	(34,963)	216,629	246,090
Life Settlement Contracts	199,178	(6,123)	-	(7,595)	(40,508)	144,952
Preferred stock	175,778	3,085	-	-	(42,863)	136,000
	\$ 1,928,534	\$ (233,292)	\$ 30,489	\$ (737,283)	\$ 708,803	\$ 1,697,251

The following table provides a roll forward of the derivative contracts classified within Level 3 for the year ended December 31, 2009:

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

(in thousands)

Estimated Fair Value as of December 31, 2008	\$ (194,761)
Settlement of open contracts, net	123,096
Net transfers in/(out) of Level 3	-
Net realized losses	(126,158)
Net change in unrealized gain	95,218
Estimated Fair Value as of December 31, 2009	\$ (102,605)

6. Derivative Financial Instruments

Effective January 1, 2009, the Consolidated Investment Funds adopted the amended authoritative guidance on disclosures about derivative instruments. The new requirement amends and expands the disclosure requirement related to derivative instruments, to provide users of the financial instruments with an enhanced understanding of the use of derivative instruments by the Consolidated Investment Funds and how these derivatives affect the financial condition, financial performance, and cash flows of the Consolidated Investment Funds. This guidance requires qualitative disclosures about the objectives and strategies for using derivative instruments, quantitative disclosures about their fair value of, and gains and losses on, derivative instruments, as well as disclosures about credit-risk-related contingent features in derivative agreements.

Credit Default Swaps

The Consolidated Investment Funds enter into credit default swaps to simulate long and short bond positions that are either unavailable or considered to be less attractively priced in the bond market. The Consolidated Investment Funds use these swaps to manage risk where they have exposure to the issuer, or to take an active long or short position with respect to the likelihood of an event of default.

The buyer of a credit default swap is generally obligated to pay the seller a periodic stream of payments over the term of the contract in return for a contingent payment upon the occurrence of a credit event with respect to an underlying reference obligation. A credit event for corporate reference obligations includes bankruptcy, failure to pay, obligation acceleration, repudiation/moratorium or restructuring. If a credit event occurs, the seller must pay the contingent payment to the buyer, which is typically the par value (full notional value) of the reference obligation, though the actual payment may be mitigated by terms of the International Swaps and Derivative Agreement ("ISDA"), allowing for netting arrangements and collateral. In addition, the payment may be reduced by anticipated recovery rates, segregated collateral and netting arrangements that may incorporate multiple transactions with a given counterparty.

The seller of credit default swaps receives a fixed rate of income throughout the term of the contract, which typically is between one month and five years, provided that no credit event occurs. If a credit event occurs, the seller may be required to pay the buyer the full notional value of the reference obligation.

As of December 31, 2009, the Consolidated Investment Funds sellers of credit default swaps ("providing protection") on a total notional amount of \$248.6 million. The notional amount of the swaps is not recorded in the financial statements; however it approximates the maximum potential amount of future payments that the Consolidated Investment Funds could be required to make if they are the seller of protection and a credit event were to occur. The fair value of the swaps as of December 31, 2009 was approximately (\$102.6 million), and the Consolidated Investment Funds have posted approximately \$144.4 million of cash collateral with the counterparty to secure these unrealized losses.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

The Consolidated Investment Funds reduced their overall exposure to credit default swaps by closing several positions, which generated approximately \$78.7 million of net realized losses that are recorded in the Consolidated Statement of Operations as a component of net realized losses from investment transactions. The Consolidated Investment Fund's average exposure to credit default swap contracts for which it provided protection during the year ended December 31, 2009 was approximately \$247 million.

The following table provides a summary of the Consolidated Investment Fund's maximum exposure by maturity credit rating under the swaps for which it sold protection. All of the contracts mature within the next five years.

(in thousands)

Current issuer credit rating*

BBB	\$ 29,500
B+	7,500
B	7,500
B-	20,250
CC	135,410
	<u>\$ 200,160</u>

* The credit rating on the underlying bond provides an indicator of the risk that the Consolidated Investment Funds will have to perform under the swap arrangement. Lower credit ratings with a shorter contract term indicate a higher likelihood of performance by the Consolidated Investment Funds.

Total Return Swaps

A total return swap is a two-party contract under which the parties agree to exchange returns from a predetermined portfolio of investments. The gross returns to be exchanged or swapped between the parties are calculated based on a notional amount, which is valued monthly to determine each party's obligation under the contract. All of the Consolidated Investment Fund's total return swap programs were terminated in 2009. As of December 31, 2009, approximately \$45.2 million was owed to various counterparties, on a net basis. Approximately \$54.1 million of cash and securities have been posted to secure the balance payable. During the year, the Consolidated Investment Funds realized \$96.4 million in realized losses related to the contracts closed out during the year.

7. Debt and Notes Payable

Consolidated debt and notes payable as of December 31, 2009 consists of:

(in thousands)

	<u>December 31, 2009</u>
Partnership revolving credit facility	\$ 143,435
Credit Opportunities Master note payable	128,603
HCREA Nolen Drive note payable	7,005
Partnership promissory note	466
	<u>\$ 279,509</u>

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

Revolving Credit Facility

On July 21, 2009, the Partnership amended and restated its credit agreement with Bank of America as syndication agent and The Bank of Nova Scotia as administrative agent in the amount of \$147.3 million (the "Credit Agreement"). The Credit Agreement provides for loans which are scheduled to mature on July 21, 2011.

Interest is payable on the last day of each month. The applicable spread for LIBOR loans under the Credit Agreement is LIBOR plus 5% per annum. For base rate loans, the spread is 4% per annum over the prevailing prime rate.

Under the terms of the Credit Agreement, the availability of credit was subject to financial covenants requiring the Partnership to maintain a minimum amount of fee earning assets under management, a minimum amount of management fees earned, a minimum collateral ratio and a maximum on compensation paid.

On September 15, 2009, the Credit Agreement was amended and restated to clarify some documentation items. On February 22, 2010, the Credit Agreement was amended a second time to clarify some of the reporting requirements.

The fair value of the facility as of December 31, 2009 was approximately \$127 million.

Promissory Note

On January 4, 2006, the Partnership received a promissory note (the "Promissory Note") from Compass Bank in the amount of \$2 million. The Partnership must make monthly payments of principal and accumulated interest on the fifth day of each month. The Promissory Note will mature on February 1, 2011. On February 8, 2007, the Partnership and Compass Bank modified the Promissory Note, which reduced the interest rate from 2.0% to 1.7% in excess of LIBOR. The outstanding balance of the Promissory Note as of December 31, 2009 was \$0.5 million. As of December 31, 2009, the estimated fair market value of the note was approximately equal to the carrying value.

Credit Opportunities Master Note Payable

On December 19, 2008, Highland Credit Opportunities CDO Financing, LLC ("CDO Financing"), a wholly-owned subsidiary of Credit Opportunities Master, executed a Note Purchase Agreement (the "Purchase Agreement") with certain investors that provided for the issuance of up to \$218 million of senior secured convertible notes guaranteed by Credit Opportunities Master. Pursuant to the terms of the Purchase Agreement and concurrent with the execution of the Purchase Agreement, CDO Financing issued \$116.6 million of senior secured convertible notes for \$115.6 million of cash and securities with a fair value of \$0.9 million. The proceeds from the notes were used primarily to fund an additional equity investment in Highland Credit Opportunities, Ltd. (the "CDO"). This investment was required under the terms of a forbearance agreement that the Credit Opportunities Master executed with the Majority Controlling Class of the CDO's note holders.

The notes have a stated maturity date of December 31, 2012 and accrue interest on a quarterly basis at a rate of 25% per year. The terms of the Purchase Agreement allow for up to 75% of the accrued interest due at any payment date to be capitalized as additional principal owed to the holders of the notes. For the year ended December 31, 2009, approximately \$12 million of interest payable was capitalized and issued to the note holders.

Subject to certain conditions, the Purchase Agreement allows for CDO Financing to issue up to \$101.4 million of additional notes to the existing note holders. The Purchase Agreement requires payment of a fee of 2.5% per annum on the unfunded portion of the note commitment. For the year ended December 31, 2009, approximately \$2.6 million of unfunded commitment fees is recorded in

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

interest expense in the Credit Opportunities Master's consolidated statement of operations. As of December 31, 2009, a liability of approximately \$2.7 million is included in interest payable in Credit Opportunities Master's consolidated statement of assets, liabilities, and partners' capital.

Under the terms of the Purchase Agreement, the Credit Opportunities Master may not make any prepayments until July 1, 2010. From July 1, 2010 through December 31, 2010, the Credit Opportunities Master may elect to prepay 50% of the outstanding principal balance. After that period, Credit Opportunities Master may prepay all or a portion of the outstanding principal, provided that each partial payment made to the note holders is in an aggregate principal amount of at least \$0.5 million.

The Purchase Agreement stipulates a premium due to the note holders upon full or partial payment of the outstanding principal of the notes. The premium due is determined by the date the principal is repaid and is calculated as a percentage of that principal balance, with a minimum of 5% due on the stated maturity date of the notes. The following table presents the premium rates by payment period:

<u>Prepayment Period</u>	<u>Fees</u>
July 1, 2010 - Dec. 31, 2010	15.0%
July 1, 2011 - Dec. 31, 2011	10.0%
July 1, 2012 - Dec. 31, 2012	6.0%
Dec. 31 2012	5.0%

Credit Opportunities Master is accruing the minimum premium due, 5% of the outstanding balance, over the contractual life of the notes using the effective-yield method. For the year ended December 31, 2009, approximately \$0.9 million of this premium due is recorded as a component of interest expense in Credit Opportunities Master's consolidated statement of operations. As of December 31, 2009 a liability of approximately \$0.9 million for the total premium recognized over the life of the notes is included in interest payable in Credit Opportunities Master's consolidated statement of assets, liabilities, and partners' capital.

At the note holders' option, up to 50% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master between January 1, 2010 and June 30, 2010. From July 1, 2010 through December 31, 2012, up to 100% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master.

The Purchase Agreement grants the note holders a lien on certain assets held by Credit Opportunities Master. In addition, it requires Credit Opportunities Master and the CDO to comply with various financial covenants. Failure to meet these covenants may result in an event of default and give the note holders the right to accelerate repayment of the debt or initiate a liquidation of certain assets. Credit Opportunities Master was in compliance with the covenants as of December 31, 2009 and for the year then ended. As of December 31, 2009, the estimated fair value of the notes was approximately \$167.4 million, which is based on value of the risk-adjusted yield from the expected future cash flows of the notes relative to comparable investments. Actual values may vary significantly from the estimates, particularly since the terms of the Company's debt are complex, and the market for the instruments is illiquid.

HCREA Nolen Drive Note Payable

On September 18, 2006, Nolen Drive entered into a \$7 million note payable with Artesia Mortgage Capital Corporation, which is secured by the underlying property in Nolen Drive (the "Term Loan"). The Term Loan matures with all principal and accrued interest due on October 11, 2011. The Term

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Loan bears interest at a rate of 6.52% per annum. Payments are due on the 11th of every month. As of December 31, 2009, the estimated fair market value of the note was approximately \$7.2 million.

8. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its consolidated entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The consolidated entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the consolidated entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Statement of Assets, Liabilities and Partners' Capital.

Market Risk

Market risk represents the potential loss that may be incurred by the Master Partnership due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Investment Fund's exposure to market risk is affected by a number of factors, including the size, composition and diversification of its investments and swap agreements; interest rates; and market volatility. The Partnership and its Consolidated Investment Funds use various forms of leverage, including notes, which increase the effect of any investment value changes on net assets.

Credit Risk

Credit risk is the potential loss the Partnership and its consolidated entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the consolidated entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the consolidated entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Liquidity Risk

The Consolidated Investment Fund's limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Investment Funds nor their manager expect such a market to develop.

Business Risk

The Partnership provides advisory services to the consolidated investment funds. The Consolidated Investment Funds could be materially affected by the actions and liquidity of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Investment Funds may invest in high-yield bonds that have been assigned a lower rating category or are not rated by various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further reduce their liquidity. The Consolidated Investment Funds also invest in senior secured syndicated bank loans and enter into direct contractual relationships with the corporate borrowers. As such, the Partnership and its

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Consolidated Investment Funds are exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower.

The current economic recession has severely disrupted the market for most high-yield bonds and loans and may continue to have an adverse effect on the value of such instruments. It is also probable that the economic downturn could adversely affect the ability of the issuers of such securities to repay principal and interest thereon and increase the incidence of default for such securities.

CLO Equity Investments

The Partnership and its Consolidated Investment Funds may invest in CLO equity that are not rated by various credit rating agencies and are generally considered to be speculative with respect to the issuer's ability to repay principal and interest. The yields and prices of these non-rated CLO equity tranches are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further limit their liquidity. Given a backdrop of deteriorating general economic conditions, the Partnership and its consolidated investment funds are exposed to the potential non-payment of principal and interest from their CLO equity investments. As of December 31, 2009, 2 of the 29 CLO's managed by the Partnership paid interest to the equity holders on their last payment date.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Investment Funds invest have been issued by distressed companies in an unstable financial condition. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions.

Credit Default Swaps

Credit default swaps involve greater risks than if the Partnership or its Consolidated Investment Funds had shorted the reference obligations directly. In addition to the market risk discussed above, credit default swaps are subject to liquidity risk and credit risk. If a credit event occurs, the value of the reference obligation received by the Partnership or its Consolidated Investment Funds, couple with the periodic payments previously received, may be less than the full notional amount it pays to the buyer, resulting in loss of value.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Investment Funds' investments. However, the Consolidated Investment Funds' portfolio could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Investment Funds. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Investment Funds to losses that are disproportionate to market movements as a whole.

Custody Risk

The clearing operations for the Partnership and its Consolidated Investment Funds are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Investment Funds' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Investment Funds may lose all or a portion of the assets held by these banks or

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Investment Funds' might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Investment Funds may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Investment Funds' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Investment Funds. If the value of the Consolidated Investment Funds' securities fall below the margin level required by a counterparty, additional margin deposits are required. If the Consolidated Investment Funds are unable to satisfy a margin call, the counterparty could liquidate the position in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Investment Funds to incur significant losses.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Investment Funds' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Investment Funds. In addition, because the use of leverage allows the Consolidated Investment Funds to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Investment Funds may lose in the event of adverse price movements is high in relation to the amount of their investment.

In the event of a sudden drop in the value of the Consolidated Investment Funds' assets, the Consolidated Investment Funds may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Investment Funds may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Investment Funds have the ability to apply discretionary margin, haircut, financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2009, the Consolidated Investment Funds' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that the Consolidated Investment Funds' are able to realize on the sale of its investments will directly affect the amounts that the investors in the Feeder Funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2009.

Litigation Risk

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

The Partnership and its Consolidated Investment Funds are periodically subject to legal actions arising from the ordinary course of business. In addition, certain of the Consolidated Investment Funds' Feeder Fund investors have filed lawsuits after receiving notification of the decision to wind-down certain Consolidated Investment Funds' investment portfolios. Refer to Note 16 for a discussion of the open litigation.

9. Related Party Transactions

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2009, approximately \$9.3 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in *Other current assets* in the accompanying consolidated balance sheet.

Long Term Incentive Plan and Intercompany Loan Payable to Highland Capital Management Services, Inc. ("HCMSI")

Effective January 1, 2001, all of the Partnership's employees were transferred to HCMSI, which provides personnel management and consulting services to the Partnership. The Partnership and HCMSI entered into a management agreement whereby the Partnership compensated HCMSI for its employee expenses plus a consulting services fee. As of January 1, 2005, there were no further transactions with HCMSI as all employees were transferred to the Partnership.

Effective January 1, 2001, HCMSI approved a long-term incentive plan ("the LTIP") for select employees who are eligible to receive Long-Term Incentive Units ("the Units") under the LTIP. The number of Units authorized under the LTIP is 30,000,000 and a majority of the Units granted vest 40% during the grant year and 30% for each of the two years thereafter, expiring 10 years after such grant date, unless different terms are agreed upon between the Plan Administrator and the employee. The fair value of the Units are based upon the fair value of the Partnership, as determined in good faith, by James Dondero, the Plan Administrator and the sole shareholder of the general partner and a limited partner of the Partnership. The LTIP was transferred to the Partnership from HCMSI on January 1, 2005.

The Units are exercisable at the discretion of the Plan Administrator, or upon a triggering event defined as the earlier of the following events:

- Change in control
- Initial public offering
- Participant's voluntary or involuntary termination due to death, disability, retirement, or hardship
- Participant's voluntary or involuntary termination other than due to death, disability, retirement, hardship, or cause is exercisable to the extent the Participant is entitled to only 80% of the vested shares.

A total of 2,479,281 Units are outstanding as of December 31, 2009 under the LTIP. During the year ended December 31, 2009, the liability under the LTIP decreased by approximately \$4.1 million, which is included in *Compensation and benefits* in the consolidated statement of income.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

The total balance payable to HCMSI was approximately \$2.6 million as of December 31, 2009, which is related to the LTIP accrual.

Effective December 31, 2004, all of the employees at HCMSI were transferred to the Partnership, and the management agreement between the Partnership and HCMSI was terminated as to the provision of future services. However, all of the outstanding and unfunded obligations of the Partnership to HCMSI as of December 31, 2004, as well as any additional obligations that may arise in relation to these amounts, will continue to be due and payable to HCMSI until satisfied in accordance with the provisions of the agreements in place.

Accounts Held with Related Party

During the year the Partnership and its subsidiaries maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2009, balances in the accounts were approximately \$52.2 million.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Controlling Positions

Various members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. Any director's fees received by the Partnership for these services as directors are paid to and retained by the Partnership. As of December 31, 2009, the Partnership and its subsidiaries held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 25,564
Biosyntech	Bond	2,963
Biosyntech	Options	1,529
Biosyntech	Common Equity	434
Blackwell BMC, LLC	Term Loan	3,201
Broadstripe Holdings, LLC	Loan Revolver	2,363
Broadstripe Holdings, LLC	Term Loan - First Lien	8,857
Broadstripe Holdings, LLC	Term Loan - Second Lien	4,265
Complete Genomics	Preferred Equity	8,497
Consolidated Restaurant Companies, Inc.	Term Loan	20,263
Cornerstone Healthcare Group Holding, Inc.	Common Equity	48,205
Cornerstone Healthcare Group Holding, Inc.	Term Loan	17,031
Cornerstone Healthcare Group Holding, Inc.	Loan - Second Lien	4,537
Decision One Corporation	Term Loan	981
Decision One Corporation	Term Loan B	1,578
Epocal, Inc.	Preferred Equity	68,613
Ginn-LA Resorts Holdings, LLC	Term Loan	1,027
Highland Special Situations Fund	Mutual Fund	2,952
Highland Long/Short Equity Fund	Mutual Fund	225
Highland Healthcare Fund	Mutual Fund	3,571
Highland Credit Strategies Fund	Closed-End Mutual Fund	4,012
Home Interiors & Gifts, Inc.	Proof of Claims	210
Marcal Paper Mills, LLC	Common Equity	8
Nex-Tech Aerospace Holdings, Inc.	Common Equity	134
Romacorp Restaurant Holdings, Inc.	Common Equity	480
Safety-Kleen Inc.	Common Equity	115,471
Solstice Neurosciences, Inc.	Preferred Equity	14,686
Terrestar	Preferred Equity	1,772
Trussway Industries, Inc.	Common Equity	15,993

During the year ended December 31, 2009, the Partnership earned approximately \$0.2 million of income from those entities where members of management serve as members of the Board of Directors. The amount is included in *Other income* in the consolidated statement of income.

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank, SSB, an affiliate of the Partnership, was the agent bank. Interest earned on the loans during the year was approximately \$16.3 million. At December 31, 2009, these subsidiaries

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

were invested in NexBank, SSB agented loans with commitments and market values totaling approximately \$323.6 million and \$85.1 million, respectively.

Affiliated Transactions

On August 20, 2008, the Partnership issued a promissory note in the amount of \$330,000 to an employee of the Partnership. The note accrues interest at a rate of LIBOR plus 1.75%. The note is payable in one lump sum on the earlier of August 20, 2015 or an event of acceleration. The note has specific forgiveness provisions of principal and interest prior to maturity if certain milestone dates are obtained. As of December 31, 2009, the principal amount on the promissory note was \$259,286 with interest accrued of approximately \$2,000.

On August 1, 2008, the Partnership issued a promissory note in the amount of \$500,000 to an employee of a subsidiary. The note accrues interest at a rate of LIBOR plus 1.75%, compounded quarterly. The note is payable in one lump sum on the earlier of August 1, 2011 or an event of acceleration. As of December 31, 2009, the principal amount on the promissory note was \$500,000 with interest accrued of approximately \$20,000.

On October 20, 2008, the Partnership received a Highland Financial Partners, L.P. ("HFP") senior secured note in the amount of \$22.3 million from CDO Master Fund. The note was transferred to the Partnership to satisfy a prior obligation. The Partnership received assets from HFP of approximately \$7.4 million on March, 26, 2009 for satisfaction of the note.

On September 26, 2008, HFP issued \$316 million of senior secured notes to the Consolidated Investment Funds in exchange for an interest in certain assets which included collateralized loan obligation securities. Due to a lack of a transfer of control caused by certain restrictive covenants associated with the exchange, these assets continue to be recognized on the Consolidated Statement of Assets, Liabilities and Partners' Capital of the Consolidated Investment Funds. Upon full payment of the outstanding principal of the senior secured notes, the restrictive covenants of the assets will be satisfied and HFP will have unencumbered interests in the assets. The Consolidated Investment Funds have recorded a liability to account for the future release of the assets, which is classified on their balance sheets as *Obligation to return collateral*. The Consolidated Investments Funds elected to apply the fair value option prescribed by current accounting guidance when they first recognized the liability, which resulted in the liability being carried at the same value as the assets in aggregate. Accordingly, the change in the fair value of the liability was recognized in the Consolidated Statement of Operations as an unrealized gain.

On March 20, 2009, the Partnership and its Consolidated Investment Funds agreed to terminate the senior secured notes that were issued by HFP. As a result, the Consolidated Investment Funds have been relieved of their obligation to transfer the underlying assets to HFP.

In accordance with the terms of a Master Indenture Agreement (the "Indenture") dated November 2, 2006, the Credit Opportunities Master acquired 250,000 Preferred Shares of Highland Credit Opportunities CDO, Ltd (the "CDO"). The Indenture requires Credit Opportunities Master to hold, directly or indirectly, more than 99% of the CDO's outstanding Preferred Shares at all times. As of December 31, 2009, the Credit Opportunities Master held 350,000 Preferred Shares and was the sole beneficial preferred shareholder.

The CDO invests primarily in floating rate syndicated bank loans, fixed income securities, and equity investments. These investments were purchased with funds the CDO received from the issuance of rated floating rate notes and Credit Opportunities Master's purchase of the Preferred Shares. Credit Opportunities Master is the sole beneficiary of all residual income from the CDO's portfolio. Although the Preferred Shares do not have a voting interest in the CDO, they carry certain rights. Specifically, they are entitled to receive quarterly preferential dividends, without requiring any declaration by the Directors, from the date they were issued until they are redeemed.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

The Investment Manager serves as the Collateral Manager for the CDO but does not receive any fees for its services to the CDO.

During the fourth quarter of 2008, the CDO failed to meet certain over-collateralization tests set forth in the First Supplement to the Indenture dated November 2, 2006. This breach would have given the CDO's Majority of Controlling Debt Class the option to accelerate repayment of the CDO's outstanding debt or initiate a liquidation of its assets. To protect the value of its investment in the CDO, Credit Opportunities Master entered into a forbearance agreement whereby the Majority Controlling Class of the CDO's note holders waived the breach and agreed not to exercise the rights discussed above. The Majority Controlling Class also agreed to waive any future events of default resulting from the CDO's failure to meet the overcollateralization tests through December 31, 2011. In return, the CDO agreed not make any preferred dividend payments to Credit Opportunities Master until the over-collateralization tests exceed certain thresholds.

Credit Opportunities Master paid certain expenses related to the forbearance agreement, which have been recorded as an increase to the cost basis of its investment in the CDO's Preferred Shares. Credit Opportunities Master has also committed to pay certain expenses in 2010 and 2011.

The Consolidated Investment Funds periodically enter into transactions to buy or sell securities with affiliated entities. During the year ended December 31, 2009, the Consolidated Investment Funds purchased approximately \$10.8 million of securities from affiliated entities and sold approximately \$37.1 million of securities to affiliated entities, which generated net losses of approximately \$8.7 million.

Services Performed by an Affiliate

In March 2007, Highland Capital of New York, L.P., a New York limited partnership ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2009, total marketing fee expense charged to the Partnership by Highland New York was approximately \$3.4 million and as of December 31, 2009, amounts owed to Highland New York for services rendered was approximately \$1.2 million.

Intercompany and Affiliate Balances

During 2008, the Partnership and affiliates engaged in a series of short-term, non-interest bearing transactions. As part of the satisfaction of the outstanding affiliated balances, approximately \$14.4 million of assets were transferred to the affiliates during 2009. Additionally, \$12.6 million of the remaining balance was converted to equity in the Partnership during 2009.

10. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

final outcome will not have a materially adverse effect on the Partnership's consolidated balance sheet, consolidated statement of income, or its liquidity. See Note 16.

Warehouse Guarantee

On July 6, 2007, the Partnership was a party to a warehouse agreement as a first loss guarantor. HCM Trident entered into the warehouse agreement and is entitled to the positive net carry or is required to pay the negative net carry. The Partnership guaranteed the payment of the negative net carry owed by HCM Trident. This guarantee was capped at 25% of the initial purchase price of the warehouse assets of \$25.7 million, or approximately \$6.4 million plus accrued interest. The Partnership paid \$3.8 million to HCM Trident as a deposit for the first loss guarantee.

On July 14, 2008, the warehouse agreement was amended to reflect the Partnership guaranteeing 100% of the negative net carry. The Partnership posted an additional \$1.5 million, for a total guarantee deposit on hand of \$3.1 million, net of any prior loss amounts.

On November 2, 2008, the warehouse agreement was amended to reflect the Partnership guaranteeing any credit facility amortization payments of principal and interest on HCM Trident's behalf. On June 15, 2009, the warehouse agreement was paid in full and the asset in the warehouse was transferred to the Partnership.

Operating Leases

Future minimum lease payments under operating lease commitments of the Partnership and its consolidated entities with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31,

2010	\$	2,071
2011		1,804
Thereafter		-
	\$	<u>3,875</u>

Total rental expense of the Partnership and its consolidated entities for operating leases was approximately \$4.4 million for the year ended December 31, 2009.

Loan Commitments

Loan and other participation interests purchased by the Consolidated Investment Funds such as bank debt and trade claims may include accompanying letters of credit, revolving credit arrangements or other financing commitments obligating the Consolidated Investment Funds to advance additional amounts on demand. At December 31, 2009, the Consolidated Investment Funds had outstanding loan commitments of approximately \$30.5 million. The total amount of outstanding commitments does not necessarily reflect the actual future cash requirements, as commitments may expire unused.

11. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. Therefore, no new participants shall enter the plan after 2008 and

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

no new benefits shall accrue under the plan after 2008. The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2009 are reconciled in the tables below.

(in thousands)

Change in projected benefit obligation	2009
Benefit obligation at beginning of year	\$ 3,543
Service cost	-
Interest cost	199
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	630
Acquisition/(divestiture)	-
Benefits paid	(956)
Benefit obligation at end of year	<u>\$ 3,416</u>
 Change in plan assets	 2009
Fair value of plan assets at beginning of year	\$ 1,146
Actual return on plan assets	457
Acquisition/(divestiture)	-
Employer contribution	2,966
Plan participants' contributions	-
Benefits paid	(956)
Other increase/(decrease)	-
Fair value of plan assets at year end	<u>\$ 3,613</u>
 Reconciliation of Funded Status	 2009
Accumulated benefit obligation at end of year	\$ 3,416
Projected benefit obligation at end of year	3,416
Fair value of assets at end of year	<u>3,613</u>
Funded status at end of year	<u>\$ 197</u>

The Partnership does not expect to contribute to the plan during 2010.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2009:

Discount rate	6.10%
Rate of compensation increase	N/A

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2009:

Discount rate	6.30%
Expected long-term return on plan assets	6.30%
Rate of compensation increase	N/A

As of December 31, 2009, approximately \$0.6 million of the plan assets were categorized as Level 3.

12. Goodwill and Other Intangible Assets

Below is a summary of the Partnership's goodwill and other intangible assets as of December 31, 2009:

(in thousands)

	Carrying Value
Highland Floating Rate Fund	\$ 12,672
Highland Floating Rate Advantage Fund	11,328
Goodwill for Highland Europe	8,020
	<u>\$ 32,020</u>

On April 9, 2004, the Partnership purchased the management agreements Highland Floating Rate Fund (the "Floating Rate Fund") and Highland Floating Rate Advantage Fund (the "Advantage Fund"). The combined purchase price for the above agreements was \$24.0 million. The purchase price was allocated among the Purchased Funds pro-rata based on the approximate combined total managed assets of the funds as of the date of purchase. As a result, \$12.7 million of the purchase price was allocated to the Floating Rate Fund and \$11.3 million was allocated to the Advantage Fund.

The Partnership performs an impairment test as required by U.S. GAAP on a yearly basis. The Partnership's management analyzes market multiples on retail asset managers within the industry as of December 31, 2009 to determine fair value of these assets. The Partnership has determined that no impairment charge is necessary for the current year.

13. Lehman Claim

On October 3, 2008, Lehman Brothers Special Financing Inc. (U.A.) ("LBSF"), an entity underlying the Consolidated Investment Fund's North American OTC derivative relationship with Lehman Brothers, filed for Chapter 11 bankruptcy.

The Consolidated Investment Fund's legal right with respect to these assets and the probability of their return is currently unclear. The unwinding of LBSF is described as large and exceptionally complex and may take years to complete. The Consolidated Investment Fund's expected losses of approximately \$4.7 million relating to LBSF's bankruptcy are recorded as a component of the net

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

change in unrealized depreciation on investments and swap contracts on the Consolidated Statement of Operations. The current value assigned to the Consolidated Investment Fund's claim on LBSF of \$13 million has been determined by the Investment Manager in good faith based on the information currently available and does not necessarily represent the amount that may ultimately be realized. This value is included in the investments balance on the Consolidate Statement of Assets, Liabilities and Partners' Capital.

14. Reverse Repurchase Agreements

Crusader Master and Credit Strategies Master are parties to collateralized financing transactions consisting of securities sold under agreements to repurchase. As of December 31, 2009, Crusader Master and Credit Strategies Master held high yield corporate bonds and equities with a fair value of \$77.2 million under reverse repurchase agreements. The gross amount payable to the counterparty (including accrued interest) was approximately \$44.4 million and is recorded as a component of due to brokers in the Consolidated Statement of Assets, Liabilities and Partners' Capital.

15. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2009, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2005 forward (with limited exceptions).

The Partnership adopted the authoritative guidance on accounting for and disclosure of uncertainty in tax positions on January 1, 2009, which required the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2009.

Crusader Master

Crusader Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Crusader Master. Crusader Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Crusader Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Crusader Master's net taxable income.

Since Crusader Master trades investments for its own account, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The General Partner intends to conduct Crusader Master's business in

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2009

such a way that it does not constitute a U.S. trade or business or create a taxable presence in any of the jurisdictions in which the Investment Manager has offices, including the United Kingdom.

Dividends as well as certain interest and other income received by Crusader Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Crusader Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Crusader Master adopted the authoritative guidance on accounting for and disclosure of uncertainty in tax positions on January 1, 2009, which required management to determine whether a tax position of Crusader Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As a result of adopting this guidance, management has established a reserve of approximately \$9.8 million for uncertain tax positions, which includes approximately \$0.5 million of interest and \$2.3 million of penalties. Of this amount, approximately \$1.3 million related to the current year and was recorded as a tax expense in Statement of Operations. The remaining \$8.5 million related to prior years and was recorded as an adjustment to the beginning partners' capital available for distribution as of January 1, 2009. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2009.

Crusader Master files tax returns as prescribed the tax laws of the jurisdictions in which it operates. In the normal course of business, Crusader Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2009, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2006 forward.

A wholly owned corporation of Crusader Master has incurred capital losses on the sale of investments that exceed the amount of capital gains it has earned. Management has concluded that the subsidiary is not likely to generate additional gains in future periods and has established a valuation allowance to reserve for the entire amount of the deferred tax asset associated with the unused capital losses.

Credit Opportunities Master

The Credit Opportunities Master adopted the authoritative guidance on accounting for and disclosure of uncertainty in tax positions on January 1, 2009, which required management to determine whether a tax position of Credit Opportunities Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As a result of adopting this guidance, management has increased their tax liability by approximately \$1.6 million to account for uncertain tax positions, which includes approximately \$0.4 million of interest and penalties. This amount relates to prior years and was recorded as an adjustment to beginning partners' capital as of January 1, 2009. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2009.

Credit Opportunities Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Opportunities Master is subject to

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

examination by federal and foreign jurisdictions, where applicable. As of December 31, 2009, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2006 forward (with limited exceptions).

Credit Opportunities Master invests in equity securities. To the extent these securities pay dividends, the Credit Opportunities Master is required to withhold 30% of the gross dividends allocable to the Feeder Fund and remit the amounts to the Internal Revenue Service. As of December 31, 2009, a withholding tax liability of \$2.2 million is included in other liabilities in the Consolidated Statement of Assets, Liabilities, and Partners' Capital of the Master Partnership.

Credit Strategies Master

Credit Strategies Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Credit Strategies Master. Credit Strategies Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Credit Strategies Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Credit Strategies Master's net taxable income.

The Credit Strategies Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Strategies Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2009, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2006 forward (with limited exceptions).

Credit Strategies Master adopted the authoritative guidance on accounting for and disclosure of uncertainty in tax positions on January 1, 2009, which required the General Partner to determine whether a tax position of Credit Strategies Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2009.

Dividends as well as certain interest and other income received by Credit Strategies Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Strategies Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

The remaining entities consolidated by the Partnership did not accrue for uncertain tax positions as required by U.S. GAAP.

16. Legal Proceedings

In April 2007, CDO Master Fund entered into a risk sharing agreement structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Special Opportunities Holding Company. The warehouse was financed by a reputable financial institution and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, the counterparty agreed to extend it

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

for one year on March 15, 2008. As a condition of the extension, CDO Master Fund posted \$10.2 million of cash as collateral. In addition, HFC posted certain securities on behalf of CDO Master Fund and HFP. During October and November 2008, the counterparty requested additional collateral calls from CDO Master Fund and HFP totaling \$20 million. Due to liquidity constraints, CDO Master Fund was unable to meet the November call, and the counterparty elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by the counterparty and sold on the open market through bids-wanted-in-competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, the counterparty notified CDO Master Fund that its pro-rata share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount. On February 24, 2009, the counterparty (the "Plaintiffs") filed a lawsuit against CDO Master Fund, HFP and the Partnership in the New York State Supreme Court of Manhattan alleging that they suffered losses in excess of \$745 million due to the depreciation in value of the warehouse collateral. The Plaintiffs are seeking leave to amend their complaint to add additional claims and defendants, including other hedge funds managed by the Partnership. On February 19, 2010 a New York Appeals Court sided with the Partnership and dismissed UBS' claims against the Partnership.

Certain consolidated investment funds (collectively, the "Plaintiffs") filed a claim against Deutsche Bank AG and Deutsche Bank Securities, Inc. (collectively, "Deutsche Bank") in Dallas County District Court alleging fraudulent inducement, fraud and breach of contract in connection with three repurchase agreements to which the Plaintiffs and Deutsche Bank were a party. Deutsche Bank subsequently filed a lawsuit against the Plaintiffs in the United Kingdom on November 7, 2008 alleging breach of contract and fraud. During 2009, the Plaintiffs settled all of the outstanding litigation with Deutsche Bank and recorded a gain of approximately \$33.1 million on the settlement, which is included as a component of realized gains on investment transactions in the Consolidated Statement of Operations.

In April 2009, HYMF, Inc. filed a lawsuit in the New York State Court against the Partnership and certain consolidated investment funds (collectively "the Defendants"). The lawsuit alleges that the Defendants breached their contractual and fiduciary duties by failing to return HYMF's original investment in the consolidated investment funds. The Defendants intend to vigorously defend against the lawsuit. At this time, management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

In January 2009, Crusader Master, the Partnership and other affiliated entities were named as parties to a lawsuit claiming breach of fiduciary duties for their alleged failure to comply with obligations owed under a credit agreement. Crusader Master reached a settlement with the plaintiff in October 2009. Under the terms of the settlement agreement, the investments that Crusader Master held in a term loan and revolving credit facility issued by the plaintiff were transferred to a third party in exchange for other assets and cash of equivalent value.

On July 15, 2008, Crusader Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida. The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. Based on the ruling, Crusader Master recorded a reserve of approximately \$34 million as of December 31, 2009, which represents its ratable share of the judgment. However, the Defendants believe they acted in good faith pursuant to the terms of the relevant agreements and have filed the appeal and final adjudication of the appeal is pending. The reserve is included as a

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2009

component of accrued expenses on the Consolidated Statement of Assets and Liabilities and a component of net realized losses from investment transactions on the Consolidated Statement of Operations.

During the first quarter of 2009, certain investors in Highland Credit Strategies Fund, Ltd. filed lawsuits in response to the decision to wind-down Credit Strategies Master's investment portfolio. Each of these investors is seeking to recover the outstanding balances due under the redemption requests that they submitted prior to the announcement of the wind-down. They have also made various claims, including breach of fiduciary duties, committed negligence, tortious interference with the payment of redemption amounts, and/or committed fraud. Both the Partnership and Highland Credit Strategies Fund, Ltd. have been named as parties to the lawsuits. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

17. Fund Wind Down

On February 4, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent and that it was in the best interest of the fund to liquidate the fund's remaining assets. The proceeds from the asset liquidations will be distributed to the remaining financing counterparties and other senior and trade creditors as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

18. Subsequent Events

In May 2009, the Financial Accounting Standards Board issued guidance regarding subsequent events, which detailed general standards for the accounting and disclosure of events that occur after the balance sheet date but before the financial statements are issued or available to be issued. This guidance did not have an impact on the Partnership or its consolidated entities' results of operations or financial position. In preparing the financial statements, management evaluated subsequent events through May 21, 2010, which is the date these financial statements were available to be issued.

Pursuant to the terms of the Purchase Agreement discussed in Note 7, approximately \$36.2 million of withdrawals previously recorded by Credit Opportunities Master were paid to investors in the Master Partnership and the Feeder Fund.

CDO Financing received a waiver from the holders of the senior secured convertible notes allowing it to prepay principal, premium and accrued interest on the notes. Approximately \$45 million of principal, \$6.8 million of premium and \$8.1 million of interest were paid to the note holders.

Highland Europe reduced its share premium account by £800,000 and remitted the funds to its parent company. Share premium was reduced as it was determined that the entity was overcapitalized.

The Partnership funded \$7 million of capital calls to Restoration Onshore and Restoration Master, collectively.

**Supplemental Information
Highland Capital Management, L.P.
Unconsolidated Balance Sheet and Income
Statement (Unaudited)
December 31, 2009**

Highland Capital Management, L.P
Supplemental Unconsolidated Balance Sheet (unaudited)
December 31, 2009

(in thousands)

Assets

Current assets:

Cash and cash equivalents	\$	90
Restricted cash		3,501
Investments at fair value (cost \$103,533)		65,154
Equity method investees		25,655
Management and incentive fees receivable		15,292
Due from brokers		1,116
Other current assets		19,547
Deferred incentive fees receivable		28,891
Purchased investment management contracts		24,000
Goodwill and other intangible assets, net		388
Fixed assets and leasehold improvements, net of accumulated depreciation of \$8,444		6,597
	\$	190,231

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	2,852
Accrued and other liabilities		32,752
Debt and notes payable		143,901
Long-term incentive plan		2,858
Total liabilities		182,363

Partners' capital		7,868
Total liabilities and partners' capital	\$	190,231

The above information was derived from the audited December 31, 2009 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

Highland Capital Management, L.P
Supplemental Unconsolidated Balance Sheet (unaudited)
December 31, 2009

(in thousands)

Revenue:

Management fees	\$ 83,437
Incentive fees/allocations	1,550
Interest and investment income	1,483
Other income	7,463
Total revenue	<u>93,933</u>

Operating expenses:

Compensation and benefits	47,440
Professional fees	4,192
Investment and research consulting	810
Amortization and depreciation	2,093
Interest expense	9,023
Other operating expenses	13,032
Total operating expenses	<u>76,590</u>

Income/(loss) before investment activities	<u>17,343</u>
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Realized and unrealized gain/(loss) from investment transactions:

Net realized loss on sale of investment transactions	(73,174)
Net change in unrealized gain/(loss) on investments	50,966
Total realized and unrealized loss from investment transactions	<u>(22,208)</u>

Realized and unrealized earnings from equity method investee:

Net unrealized earnings from equity method investees	<u>4,788</u>
Total realized and unrealized earnings from equity method investees	4,788

Net income	<u><u>\$ (77)</u></u>
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The above information was derived from the audited December 31, 2009 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

EXHIBIT 65

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

**Consolidated Financial Statements and
Supplemental Information
December 31, 2010**

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

Index

December 31, 2010

	Page(s)
Report of Independent Auditors	1
Audited Consolidated Financial Statements	
Balance Sheet	2
Statement of Income	3
Statement of Changes in Partners' Capital	4
Statement of Cash Flows	5
Notes to Financial Statements	6–42
Supplemental Information	43–45



Report of Independent Auditors

To the General and Limited Partners of
Highland Capital Management, L.P.:

In our opinion, the accompanying consolidated balance sheet and the related consolidated statements of income, of changes in partners' capital and of cash flows (hereinafter referred to as the "financial statements") present fairly, in all material respects, the consolidated financial position of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership") at December 31, 2010, and the results of their operations, the changes in their partners' capital, and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The supplemental unconsolidated balance sheet and statement of income are presented for purposes of additional information, and are not a required part of the basic consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and, in our opinion, is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

PricewaterhouseCoopers LLP

May 20, 2011

*PricewaterhouseCoopers LLP, 2001 Ross Avenue, Suite 1800, Dallas, Texas 75201
T: (214) 999-1400, F: (214) 754-7991, www.pwc.com/us*

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2010

(in thousands)

Assets

Cash and cash equivalents	\$	96,115
Restricted cash		29,101
Investments at fair value (cost \$3,622,415)		2,350,386
Unrealized gains on derivative contracts		953
Management and incentive fees receivable		17,611
Due from brokers		33,100
Other assets		37,805
Deferred incentive fees receivable		35,883
Purchased investment management contracts		24,000
Goodwill and other intangible assets		8,020
Fixed assets and leasehold improvements, net of accumulated depreciation of \$11,057		11,267

Total assets	\$	2,644,241
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Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	2,198
Securities sold, not yet purchased (proceeds \$14,366)		21,406
Withdrawals payable		15,736
Interest payable		7,061
Due to brokers		420,846
Due to brokers for securities purchased not yet settled		67,548
Accrued and other liabilities		84,084
Secured borrowing		3,803
Debt and notes payable		190,139
Long-term incentive plan		1,081

Total liabilities		813,902
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Non-controlling interest		1,798,232
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Commitments (Note 11)

Partners' capital		32,107
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Total liabilities and partners' capital	\$	2,644,241
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Income
Year Ended December 31, 2010

(in thousands)

Revenue:	
Management fees	\$ 85,927
Incentive fees/allocations	8,066
Interest and investment income	140,136
Other income	<u>16,233</u>
Total revenue	<u>250,362</u>
Expenses:	
Compensation and benefits	60,717
Professional fees	26,406
Investment and research consulting	785
Amortization and depreciation	2,086
Interest expense	48,056
Tax expense	6,907
Other expenses	<u>22,359</u>
Total expenses	<u>167,316</u>
Income before investment and derivative activities and extinguishment of debt	<u>83,046</u>
Realized and unrealized gain/(loss) from investment and derivative transactions:	
Net realized loss on investment and derivative transactions	(416,398)
Net change in unrealized gain on investment and derivative transactions	<u>780,716</u>
Total realized and unrealized gain from investment and derivative transactions	<u>364,318</u>
Net realized gain on extinguishment of debt	10,000
Net income	457,364
Net income attributable to the non-controlling interest	<u>(431,023)</u>
Net income attributable to Highland Capital Management, L.P.	<u>\$ 26,341</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2010

(in thousands)

	General Partner	Limited Partners	Total
Partners' capital, December 31, 2009	\$ 506	\$ 7,362	\$ 7,868
Net gain attributable to Highland Capital Management, L.P.	-	26,341	26,341
Partner contributions	-	-	-
Partner distributions	(11)	(2,091)	(2,102)
Partners' capital, December 31, 2010	<u>\$ 495</u>	<u>\$ 31,612</u>	<u>\$ 32,107</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2010

(in thousands)

Cash flows from operating activities:

Net income	\$ 457,364
Adjustment to reconcile net income to cash and cash equivalents provided by operating activities:	
Net realized loss on investments and derivative transactions	416,398
Net realized gain on extinguishment of debt	(10,000)
Net change in unrealized gain on investments and derivative transactions	(780,716)
Amortization and depreciation	2,086
Changes in assets and liabilities:	
Restricted cash	218,942
Management and incentive fee receivable	(828)
Deferred incentive fees	(6,992)
Other assets	7,908
Due from brokers	(24,316)
Accounts payable	(2,253)
Accrued and other liabilities	3,176
Due to brokers for unsettled trades	(48,342)
Interest payable	3,324
Withdrawals payable	(20,495)
Long-term incentive plan	(1,777)
Due to Affiliate	23,685
Net cash provided by operating activities	<u>237,164</u>

Cash flows from investing activities:

Proceeds from fixed assets and leasehold improvements, net	1,539
Purchases of investments	(404,384)
Proceeds from dispositions of investments	<u>331,663</u>
Net cash required by investing activities	<u>(71,182)</u>

Cash flows from financing activities:

Payments on long-term debt	(47,684)
Payments on revolving debt and promissory notes	(45,000)
Proceeds from affiliate loans	13,314
Net payments on secured borrowings	(58,039)
Due to brokers	27,552
Capital contributions from minority interest investors of consolidated entities	119,745
Capital withdrawals by minority interest investors of consolidated entities	(127,900)
Partner distributions	(2,101)
Net cash required by financing activities	<u>(120,113)</u>

Net increase in cash and cash equivalents	45,869
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Cash and cash equivalents

Beginning of year	50,246
End of year	<u>\$ 96,115</u>

Supplemental disclosure of cash flow information:

Interest paid during the year	\$ 53,704
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment advisor under the Investment Advisors Act of 1940 that manages collateralized loan obligations ("CLOs"), registered investment companies ("RICs"), hedge funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is 100% owned by senior management of the Partnership.

As of December 31, 2010, the Partnership provided investment advisory services for twenty-seven CLOs, seven RICs, two separate accounts, one master limited partnership, and twelve hedge fund structures, with total fee-earning assets under management of approximately \$21.7 billion.

2. Liquidity Considerations

As further discussed in Note 8, the Partnership has a Revolving Credit Facility (the "Credit Agreement") scheduled to mature on July 21, 2011, including forbearance from the exercising of remedies for events of default from July 21, 2011 to November 18, 2011. Management is currently in negotiations to extend or refinance the Credit Agreement with the lenders. Management is also considering alternative sources of financing to repay in the event that an extension of the existing Credit Agreement cannot be obtained although to date, such alternative sources have not been secured. The Credit Agreement is collateralized by assets of the Partnerships with an estimated fair value of approximately \$100 million at December 31, 2010. Although there can be no assurance that these assets could be sold at that value, management has the ability to sell these and certain other assets should it become necessary in order to pay off the remaining balance of the Credit Agreement in the event an extension cannot be obtained. There can be no assurance that management will be successful in their attempts to extend the Credit Agreement, to identify alternative sources of financing or to sell assets for proceeds sufficient to repay the balance of the Credit Agreement.

3. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIE's (collectively referred to as the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005
- Highland Credit Opportunities CDO, L.P. ("Credit Opportunities Master"), a Delaware limited partnership that commenced operations on December 29, 2005;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore") a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore") a Delaware limited partnership that commenced operations on September 2, 2008; and
- Highland Restoration Capital Partners Master, L.P. ("Restoration Master") a Delaware limited partnership that began commenced on September 2, 2008.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Management Europe, Ltd. ("Highland Europe"), a company organized in the United Kingdom and purchased by the Partnership on April 6, 2005;
- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008; and
- 100% interest in Highland Employee Retention Assets, LLC, a Delaware limited liability company that commenced operations on October 26, 2009.
- 100% interest in Highland Special Situations Fund, a Delaware statutory trust that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, as a non-diversified, closed-end management investment company, and commenced operations on May 18, 2005.

All significant interpartnership and intercompany accounts and transactions have been eliminated in consolidation of all of the aforementioned consolidated entities. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2010, the Partnership and its consolidated entities recognized management and incentive fees of approximately \$85.9 million, and \$8.1 million, respectively. The Partnership recognized approximately \$7.0 million of appreciation on incentive fees earned prior to 2008, previously

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the Consolidated Statement of Income.

Derivative Contracts

Credit Default Swaps are marked-to-market based upon values from third party vendors or broker quotations and the change in value is recorded as unrealized appreciation/depreciation. Swap contracts with cumulative unrealized gains as of a reporting date are recorded as assets on the Consolidated Balance Sheet, while swap contracts with cumulative unrealized losses as of the reporting date are recorded as liabilities. Upfront payments made/received by the Consolidated Funds are amortized or accreted for financial reporting purposes, with the unamortized or unaccreted portion included in the Consolidated Balance Sheet. A termination payment by the counterparty or the Consolidated Funds is recorded as a realized gain or loss, as well as the net periodic payments received or paid by the Consolidated Fund.

Dividends, Interest and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. Of the entities consolidated, only Highland Europe is subject to these provisions.

The Consolidated Investments Funds are not subject to federal income taxes and therefore no provision has been made in the accompanying consolidated financial statements.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Foreign cash of \$2.8 million is included in the cash and cash equivalents on the consolidated balance sheet, a portion of which exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Debt Securities

The Consolidated Funds invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Consolidated Funds first seek to obtain reliable market quotes from other parties dealing in the specific asset. Absent both a reliable market quote and third-party pricing service date, the Consolidated Funds may use various models to establish an estimated exit price. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Investment Manager's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Private Equity Investments

The Consolidated Funds hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Consolidated Funds will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publically available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Asset Backed Securities

The Consolidated Funds invest in a variety of asset backed securities. Asset backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Funds generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Funds evaluate the results based on visible market activity and market research. When appropriate, the Consolidated Funds may apply other techniques based on a specific asset's characteristics.

Total Return Swaps

A total return swap agreement is a two-party contract under which an agreement is made to exchange returns from predetermined investments or instruments. The gross returns to be exchanged or "swapped" between the parties are calculated based on a "notional amount," which is valued monthly according to the valuation policy mentioned above to determine each party's obligation under the contract.

Risks could arise from entering into swap agreements from the potential inability of counterparties to meet the terms of their contracts, and from the potential inability to enter into a closing contract. The Partnership's Consolidated Investment Funds recognize all cash flows received (paid) or receivable (payable) from swap transactions on a net basis as realized or unrealized gains or losses on investment transactions in the consolidated statement of income. The Partnership and the Consolidated Investment Funds are charged a finance cost by counterparties with respect to each agreement. The finance cost is reported as part of the realized or unrealized gains or losses.

Credit Default Swaps

As discussed in Note 7, under a credit default swap agreement two parties agree to transfer the credit exposure of an asset between one another. The seller of the swap guarantees the credit worthiness of a specific instrument by agreeing to pay the buying party a specific amount (generally par value) in the event that the instrument defaults.

At December 31, 2010, the Partnership's Consolidated Investment Funds were party to credit default swaps in which they act as the guaranteeing party. In the event that any of the underlying instruments default prior to the expiration of the agreements, the Consolidated Investment Funds are obligated to pay the swap counterparty the par value of the specific instrument. The Consolidated Investment Funds collect a fee based on the size of the underlying positions which are treated as realized gains once received. The difference between the current market value of the swaps and the original price of the swap is reported as an unrealized gain or loss.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand. Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash or securities. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Securities Loaned

The Partnership's Consolidated Investment Funds may lend securities to their financing counterparties for margin. The lending entity receives the interest associated with the securities loaned. The loans are secured by the fair value of the securities. Gains or losses in the fair value of the securities loaned that occur during the term of the loan will be for the account of the lender. The lender has the right under the lending agreement to recover the securities from the prime brokers on demand. The lender pays a fee to the broker for the cash collateral received. This is accounted for as interest expense. A credit risk exists to the lender under this type of transaction to the extent that the counterparty defaults on its obligation to return the securities loaned.

Revolving Credit Agreements

The funded portion of revolving credit agreements is recorded at fair value on the Consolidated Balance Sheet as a component of investments, net of the fair value of unfunded commitments for which the Consolidated Funds may be liable in the future (Note 11).

Margin Transactions

In order to obtain more investable cash, the Partnership and its subsidiaries may use various forms of leverage including purchasing securities on margin. Such leverage may allow the Partnership and its subsidiaries to increase net assets at a greater rate during increasing markets, but also may lead to a more rapid decrease in net assets in a declining market. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2010. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. Withdrawals payable may be treated as capital for purposes of allocations of gains/losses pursuant to the partnerships' governing documents. At December 31, 2010, the Consolidated Investment Funds had withdrawals payable of \$15.7 million.

Foreign Currency Transactions

The Partnership's subsidiary Highland Europe uses British Pounds as its functional currency and enters into transactions in multiple foreign currencies. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2010. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the consolidated statement of income.

The Consolidated Investment Funds do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments*.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Financial Instruments

The Partnership and its consolidated entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Life Settlement Contracts

One of the Partnership's Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. The contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of "Purchase of investments" and "Proceeds from the disposition of investments" on the Consolidated Statement of Cash Flows.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Goodwill and Other Intangible Assets

The Partnership purchased Highland Europe on April 6, 2005. Goodwill represents the amount paid in excess of the fair value of the assets of Highland Europe at the date of acquisition. No goodwill impairments existed as of December 31, 2010.

The Partnership has obtained the rights to the management contracts of certain RICs by acquiring the underlying contracts from the predecessor investment manager. The Partnership performs an impairment test on the purchased investment contracts on an annual basis. Any depreciation in the value of the purchased investment management contracts are accounted for in the year when it occurs. The carrying values of the purchased investment contracts are not adjusted for appreciation. The goodwill and purchased investment management contracts are indefinite-lived assets and are not amortized.

Recently Issued Accounting Standards and Interpretations

In June 2009, the FASB issued amended guidance on accounting for transfers of financial assets (originally issued as SFAS No. 166, *Accounting for Transfers of Financial Assets, an amendment of FASB Statement No. 140*, and subsequently reissued as ASU 2009-16, *Accounting for Transfers of Financial Assets*). The amendments were issued to improve the information that a reporting entity provides in its financial statements about a transfer of financial assets, the effects of a transfer on its financial statements, and a transferor's continuing involvement, if any, in transferred financial assets. The amendments eliminate the concept of qualifying special purpose entities from U.S. GAAP. These entities will now be evaluated for consolidation in accordance with the applicable consolidation criteria. The amendments are effective for reporting periods beginning on or after November 15, 2009. The adoption of ASU 2009-16 did not have a material impact on the Company's financial position or results of operations.

In June 2009, the FASB issued amended guidance on accounting for variable interest entities (originally issued as SFAS No. 167, *Amendments to FASB Interpretation No. 46(R)*, and subsequently reissued as ASU 2009-17, *Improvements to Financial Reporting by Enterprises*

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Involved with Variable Interest Entities). The amendments were issued to address the effects of the removal of the concept of qualifying special purpose entities from U.S. GAAP and to address concerns regarding the consolidation of variable interest entities. ASU 2009-17 will require a qualitative approach rather than a quantitative approach when determining the primary beneficiary of a variable interest entity and will also change the criteria by which an enterprise determines whether it is the primary beneficiary of an entity. In addition, the amended interpretation will no longer consider removal rights when determining whether an entity is a variable interest entity and whether to consolidate a variable interest entity as the primary beneficiary unless those rights are held by a single party. ASU 2009-17 is effective for reporting periods beginning on or after November 15, 2009. The adoption of ASU 2009-17 did not have a material impact on the Partnership's financial position or results of operations, as substantially all of the entities in which it holds variable interests will qualify for the scope deferral included in ASU 2010-10, *Amendments to Statement 167 for Certain Investment Funds*.

In February 2010, the FASB issued ASU 2010-10, *Amendments to Statement 167 for Certain Investment Funds*. ASU 2010-10 defers the effective date of ASU 2009-17 for certain investment entities to allow the FASB to work with the International Accounting Standards Board ("IASB") in developing consistent consolidation guidance. The deferral will apply to a reporting entity's (i.e. investment manager's) interest in an entity (i) that has the attributes of an investment company or (ii) for which it is industry practice to apply measurement principles for financial reporting purposes that are consistent with those followed by investment companies. The deferral in ASU 2010-10 would not apply in situations in which a reporting entity has the explicit or implicit obligation to fund actual losses of an entity that could potentially be significant to the entity. ASU 2010-10 is effective for annual reporting periods beginning on or after November 15, 2009, and for interim periods within that first annual reporting period. The adoption of ASU 2010-10 did not have a material impact on the Company's financial position or results of operations, as adoption of the deferral results in the Company continuing to apply consolidation and disclosure requirements in effect during prior periods.

In January 2010, the FASB issued guidance on improving disclosures about fair value measurements. The guidance requires additional disclosure on transfers in and out of Levels I and II fair value measurements in the fair value hierarchy and the reasons for such transfers. In addition, for fair value measurements using significant unobservable inputs (Level III), the reconciliation of beginning and ending balances shall be presented on a gross basis, with separate disclosure of gross purchases, sales, issuances and settlements and transfers in and transfers out of Level III. The new guidance also requires enhanced disclosures on the fair value hierarchy to disaggregate disclosures by each class of assets and liabilities. In addition, an entity is required to provide further disclosures on valuation techniques and inputs used to measure fair value for fair value measurements that fall in either Level II or Level III. The guidance is effective for interim and annual periods beginning after December 15, 2009, except for the disclosures about purchases, sales, issuances, and settlements in the roll forward of activity in Level III fair value measurements, which are effective for fiscal years beginning after December 15, 2010. Adoption did not have a material impact on the Partnership's financial statements.

In December 2010, the FASB issued enhanced guidance on when to perform step two of the goodwill impairment test for reporting units with zero or negative carrying amounts. The updated guidance modifies existing requirements under step one of the goodwill impairment test for reporting units with zero or negative carrying amounts and requires step two to be performed if it is more likely than not that a goodwill impairment exists. The guidance is effective for interim and annual reporting periods beginning after December 15, 2010. As the Partnership and Consolidated

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

entities do not currently have zero or negative carrying values, adoption will not have a material impact on the Partnership's financial statements.

4. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2010:

(in thousands)

Buildings	\$ 8,250
Land	1,084
Leasehold improvements	4,064
Computer and equipment	3,488
Furniture and fixtures	3,141
Computer software	2,297
Accumulated depreciation	<u>(11,057)</u>
	<u>\$ 11,267</u>

The Partnership and its consolidated entities are depreciating fixed assets as follows:

	<u>Period</u>
Buildings	29 - 40 years
Leasehold improvements	Lease term
Computer and equipment	5 years
Furniture and fixtures	7 years
Computer software	3 years

Depreciation expense in 2010 totaled approximately \$2.1 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

5. Investments

Detailed below is a summary of the Partnership's investments at December 31, 2010:

(in thousands)

	Amortized Cost/Cost	Value
Floating rate syndicated bank loans	\$ 680,415	\$ 222,695
Fixed rate syndicated bank loans	11,320	15,644
Fixed income securities	907,237	708,957
Equity securities	1,373,233	1,037,090
Life settlement contracts	270,802	165,223
CLOs (mezz tranches)	51,730	25,846
CLOs (residual CLO equity tranches)	31,077	5,436
Closed-end mutual funds	11,799	14,580
Private placement real estate	116,190	524
Limited partnerships	162,515	150,775
Warrants	6,097	3,616
Total investments	\$ 3,622,415	\$ 2,350,386
Credit default swaps	\$ -	\$ 953
Net unrealized gain/loss on swaps	\$ -	\$ 953
	Proceeds	Value
Securities sold, not yet purchased	\$ 14,366	\$ 21,406

Affiliated Investments

Investments in Residual CLO Equity and Mezzanine Tranches

Investments in affiliated residual CLO equity tranches primarily represent tranches of CLOs for which the Partnership and Highland Europe provide investment advisory services. The Consolidated Investment Funds receive quarterly distributions based on the excess interest after paying the stated interest distributions to the senior and mezzanine note holders, and paying the investment manager, trustee and other related fees. A portion of these distributions are amortized against the cost basis of the investment based on the actual cash distributions received during the year versus the total expected remaining cash distributions to the residual CLO equity tranche. The remainder of the distribution is recorded as interest income.

Investments in residual equity and mezzanine tranches of CLOs are not actively traded. The estimated fair value of the CLOs is derived from broker quotes and valuation models. The estimated fair value of these investments as presented in the consolidated balance sheet does not necessarily represent the amount that could be obtained from the sale of these investments. Changes in the credit quality or the performance of the underlying collateral, the availability and price of assets available for reinvestment, interest rates and/or the interest rate curve, or other market conditions could have a material impact on the estimated fair value of the investments.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Investment in Highland Long/Short Equity Fund

The Partnership invests in Highland Long/Short Equity Fund ("HEOF"), a diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2010, the market value of the Partnership's investment in HEOF was approximately \$0.2 million.

Investment in Highland Healthcare Fund

The Partnership invests in Highland Healthcare Fund ("HHF"), a non-diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2010, the market value of the Partnership's investment in HHF was approximately \$7.4 million.

Investment in Highland Credit Strategies Fund

The Partnership invests in Highland Credit Strategies Fund ("HCF"), a diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2010, the market value of the Partnership's investment in HCF was approximately \$4.8 million. During the year ended December 31, 2010, the Partnership received approximately \$0.4 million in dividends from HCF.

Investment in Highland Diversified Credit Fund

The Partnership invests in Highland Diversified Credit Fund ("DCF"), a hedge fund for which the Partnership provides investment advisory services. As of December 31, 2010, the market value of the Partnership's investment in DCF was approximately \$2.0 million. During the year ended December 31, 2010, the Partnership did not receive any dividends from DCF.

Prepaid Forward Contract

On July 28, 2006, Highland Multi-Strategy Onshore Master Subfund I, LLC ("Subfund") and Barclays Bank PLC ("Barclays") entered into a prepaid forward contract. The Partnership and affiliates redeemed approximately \$312.7 million of a reference portfolio, which was comprised of the following basket of funds advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund and Select Equity Fund. Barclays simultaneously contributed approximately \$312.7 million as a hedge to its obligation under the prepaid forward contract.

Barclays was prepaid approximately \$156.3 million, or one-half of the reference portfolio value at initiation of the transaction. A notional amount, (the initial reference portfolio value less the amount prepaid), accretes interest to Barclays at monthly LIBOR plus 0.90% per annum.

A collateral account in the amount of approximately \$53.2 million was established to further secure the transaction. Due to extreme market volatility, all of the underlying holdings in the collateral account were sold during 2008.

The term of the prepaid forward contract was three years and allowed for net settlement upon termination. The contract expired on July 31, 2009 whereby Barclays was to remit in cash the greater of the difference between the reference portfolio value and the notional amount, as valued on the scheduled termination date, or zero. Upon expiration, Barclays was not obligated to make a cash payment to the Subfund.

On October 7, 2008, Barclays submitted a notice of early termination for the prepaid forward contract.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Accreting Strike Option

On February 28, 2007, Highland Multi-Strategy Onshore Master Subfund II, LLC entered into an Accreting Strike Option ("ASO") with Barclays. The ASO's value is based on the following basket of funds ("the reference portfolio") advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund, Select Equity Fund and Credit Opportunities Domestic Feeder. The value of the reference portfolio at inception was approximately \$250.2 million.

Barclays was paid a \$71.4 million premium on the option. The strike price, (the initial reference portfolio value less the premium paid), accretes interest to Barclays at monthly LIBOR plus 1.4% per annum. As of December 31, 2010, the strike price was approximately \$182.6 million.

The term of the accreting strike option is five years and allows for net settlement upon termination. At contract expiration, Barclays will remit in cash the greater of the difference between the reference portfolio value and the strike price, as valued on the scheduled termination date, or zero. As of December 31, 2010, the ASO did not have a positive net fair value. As such, no amount was recorded in the Partnership's financial statements.

Detailed below is a summary of the transaction as of December 31, 2010:

(in thousands)

Reference Portfolio	Value
Select Equity Fund	\$ 113,506
Crusader Domestic Feeder	15,138
Equity Focus Fund	5,978
Credit Opportunities Domestic Feeder	4,828
Real Estate Fund	-
Highland CDO Opportunity Fund, Ltd.	-
Credit Strategies Domestic Feeder	-
Reference Portfolio Total	\$ 139,450
Notional Amount	\$ (182,631)
Deficit of Reference Portfolio Total to Notional Amount	\$ (43,181)

On October 13, 2008, Barclays served notice of early termination for the accreting strike option.

Investment in Highland Employee Retention Assets LLC ("HERA")

During 2009, the Partnership established HERA, an employee deferred compensation vehicle. On October 26, 2009, approximately \$12.1 million of assets were transferred to HERA. As of December 31, 2010, the Partnership's equity investment in HERA was approximately \$3.5 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

6. Fair Value of Financial Instruments

Fair Value Measurement

In accordance with the authoritative guidance on fair value measurements and disclosures under U.S. GAAP, the Consolidated Investment Funds disclose the fair value of their investments in a hierarchy that prioritizes the inputs to valuation techniques used to measure the fair value. The hierarchy gives the highest priority to valuations based upon unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to valuation based upon unobservable inputs that are significant to the valuation (level 3 measurements). The guidance establishes three levels of the fair value hierarchy as follows:

- Level 1 – Valuation based on quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Investment Funds have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure the fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Investment Funds use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments. During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being re-classified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates.

Whenever possible, the Partnership and its Consolidated Investment Funds use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Investment Funds develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

As of December 31, 2010, the Partnership and its consolidated entities' investments consisted of floating rate syndicated bank loans, high yield corporate bonds, CLO securities, private placements, private placement real estate debt and equity, life settlement contracts and common and preferred equity securities. In addition, the consolidated entities are parties to various credit default swaps. The majority of these financial instruments are not listed on national securities exchanges, and management is required to use significant judgment to estimate their values.

The fair value of the loans, corporate bonds and CLO securities are generally based on quotes received from brokers or independent pricing services. The policy of the Partnership and its consolidated subsidiaries is to classify loans and bonds that are priced in this manner as Level 3 assets because the markets in which they trade are not active and the inputs used by the brokers and pricing services are not readily observable. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

The consolidated entities' private placement real estate investments include equity interests in limited liability companies and debt issued by entities that invest in commercial real estate. The fair value of these investments is based on internal models developed by the Partnership. The significant inputs to the models include cash flow projections for the underlying properties and appraisals performed by independent valuation firms. Since these inputs are not readily observable, the investments are classified as Level 3 assets.

Common and preferred equity securities traded on national exchanges are valued at their closing prices as of December 31, 2010. These securities are classified as Level 1 assets. The consolidated entities also hold certain equity securities for which no active market exists. The value of these securities, which are classified as Level 3 assets, is based on a combination of broker quotes and internal valuation models.

Life settlement contracts are valued using mortality tables and interest rate assumptions that are deemed appropriate for the demographic characteristics of the parties insured in the underlying policies. Since these inputs are not readily observable, they are classified as Level 3 assets.

The Consolidated Funds engage in "short sales" as part of its investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand. Pending the return of such securities, the Consolidated Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash or securities. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Funds are required to return to the lender.

The fair value of credit default swaps is based on quotes received from an independent pricing service. The inputs used to derive the quotes are not readily observable and are therefore classified as Level 3 liabilities.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. All of the Consolidated Investment Fund's investments and derivatives at December 31, 2010 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2010:

(in thousands)

	Level 1	Level 2	Level 3	Total Fair Value at 12/31/10
Loans	\$ -	\$ 11,885	\$ 226,453	\$ 238,338
Bonds & Asset Backed Securities	-	409,448	313,814	723,262
Collateralized loan obligations	-	-	16,977	16,977
Rights & Warrants	573	1,799	1,244	3,616
Private placement real estate	-	-	524	524
Limited partnership interest	-	-	150,775	150,775
Common equity securities	211,944	73,774	316,209	601,927
Mutual Funds	14,580	-	-	14,580
Privately held equity	-	-	296,339	296,339
Life Settlement Contracts	-	-	165,223	165,223
Preferred stock	-	-	138,824	138,824
Common stock sold short	(21,406)	-	-	(21,406)
Total	\$ 205,691	\$ 496,906	\$ 1,626,382	\$ 2,328,979

The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2010:

(in thousands)

	Estimated Fair Value as of December 31, 2009	Purchases, Sales and Maturities, Net	Net Transfers In/(Out)	Net Realized Losses	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2010
Loans	\$ 360,828	\$ (130,417)	\$ (6,216)	\$(116,820)	\$ 119,078	\$ 226,453
Bonds & Asset Backed Securities	414,356	(21,867)	(148,769)	(80,500)	150,594	313,814
Collateralized loan obligations	8,142	1,075	-	28	7,732	16,977
Rights & Warrants	5,003	(3,083)	(2,574)	6,020	(4,122)	1,244
Private placement real estate	12,180	(5,330)	-	(5,856)	(470)	524
Limited partnership interest	129,393	2,150	-	-	19,232	150,775
Common equity securities	249,553	38,842	1,097	(48,880)	75,597	316,209
Privately held equity	246,090	(52,811)	85	(754)	103,729	296,339
Life Settlement Contracts	144,952	28,323	-	-	(8,052)	165,223
Preferred stock	141,103	(14,526)	-	(18,808)	31,055	138,824
	\$ 1,711,600	\$ (157,644)	\$(156,377)	\$(265,570)	\$ 494,373	\$ 1,626,382

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to a decline or an increase in market activity (e.g. frequency of trades), which resulted in a lack of or increase in available market inputs to determine price. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2010.

The following table provides a summary of the derivative contracts recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2010:

(in thousands)

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Derivative contracts, asset	\$ -	\$ -	\$ 953	\$ 953
Derivative contracts, liability	-	-	-	-
Derivative contracts, net	\$ -	\$ -	\$ 953	\$ 953

The following table provides a roll forward of the derivative contracts classified within Level 3 for the year ended December 31, 2010:

(in thousands)

Estimated Fair Value as of December 31, 2009	\$ (102,605)
Settlement of open contracts, net	126,383
Net transfers in/(out) of Level 3	-
Net realized losses	(123,821)
Net change in unrealized gain	100,996
Estimated Fair Value as of December 31, 2010	\$ 953

7. Derivative Financial Instruments

Credit Default Swaps

Credit default swap ("CDS") contracts are financial instruments that involve the payment of a fixed rate premium for protection against the loss in value of an underlying debt instrument, referenced entity or index, or the occurrence of a defined credit event. Under the terms of the swap, one party acts as a "guarantor" (the Seller), receiving the periodic stream of payments (from the Buyer) over the term of the contract and agreeing to the remedies that are specified within the credit default agreement. A credit event for corporate reference obligations includes bankruptcy, failure to pay, obligation acceleration, repudiation/moratorium or restructuring. If a credit event occurs, the seller must pay the contingent payment to the buyer, which is typically the par value (full notional amount) of the reference obligation, though the actual payment may be mitigated by terms of the International Swaps and Derivative Agreement ("ISDA"), allowing for netting arrangements and collateral. In addition, the payment may be reduced by anticipated recovery rates, segregated collateral and netting arrangements that may incorporate multiple transactions with a given counterparty.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

The following table summarizes the CDS contracts the Consolidated Investment Funds held as of December 31, 2010:

(in thousands)

Industry	Purchased / Sold	Maturity Date	Fixed Rate of Payment	Notional Amount / Exposure Purchased	Unamortized Upfront Payment	Market Value
Beverage, Food and Tobacco	Sold	9/20/2012	4.65%	\$ 7,500	\$ -	\$ 402
Electronics	Sold	9/20/2012	2.65%	7,500	-	171
Diversified/Conglomerate Service	Sold	9/20/2012	3.55%	3,750	-	117
Broadcasting and Entertainment	Sold	9/20/2012	3.00%	6,000	-	92
Buildings and Real Estate	Sold	9/20/2012	4.05%	3,750	-	63
Electronics	Sold	9/20/2012	3.20%	7,500	-	62
Media/Telecom	Sold	9/20/2012	3.00%	3,000	-	46
Total				\$ 39,000	\$ -	\$ 953

The following table provides a summary of the Consolidated Investment Fund's maximum exposure by maturity credit rating under the swaps for which it sold protection. All of the contracts mature within the next five years.

(in thousands)

Current issuer credit rating*

BB-	\$ 7,500
B	12,750
B-	18,750
	\$ 39,000

* The credit rating on the underlying bond provides an indicator of the risk that the Consolidated Investment Funds will have to perform under the swap arrangement. Lower credit ratings with a shorter contract term indicate a higher likelihood of performance by the Consolidated Investment Funds.

Total Return Swaps

A total return swap is a two-party contract under which the parties agree to exchange returns from a predetermined portfolio of investments. The gross returns to be exchanged or swapped between the parties are calculated based on a notional amount, which is valued monthly to determine each party's obligation under the contract. The investments held in the swap portfolio consist primarily of corporate bank debt.

During the year ended December 31, 2010, the Consolidated Investment Funds' were invested in a total return swap program with a major international financial institution. The Consolidated Investment Funds realized approximately \$2.2 million of net gains, which are included as a component of net realized loss from investments and derivative contracts in the Consolidated Statement of Income, and were netted against collateral previously posted with the counterparty upon termination of the program.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

8. Debt and Notes Payable

Consolidated debt and notes payable as of December 31, 2010 consists of:

(in thousands)

	December 31, 2010
Partnership revolving credit facility	\$ 86,296
Credit Opportunities Master note payable	83,603
Highland Capital Management Europe note payable	13,314
Nolen Drive note payable	6,926
	\$ 190,139

Revolving Credit Facility

On July 21, 2009, the Partnership amended and restated the Credit Agreement with Bank of America as syndication agent and The Bank of Nova Scotia as administrative agent in the amount of \$147.3 million. The Credit Agreement provides for loans which are scheduled to mature on July 21, 2011.

Interest is payable on the last day of each month. The applicable spread for LIBOR loans under the Credit Agreement is LIBOR plus 5% per annum. For base rate loans, the spread is 4% per annum over the prevailing prime rate.

Under the terms of the Credit Agreement, the availability of credit was subject to financial covenants requiring the Partnership to maintain a minimum amount of fee earning assets under management, a minimum amount of management fees earned, a minimum collateral ratio and a maximum on compensation paid.

On September 15, 2009 and February 22, 2010, the Credit Agreement was amended and restated to clarify some documentation items and reporting requirements.

On December 28, 2010, a waiver to the Credit Agreement was executed which allowed the Partnership to reduce its debt from \$141.3 million to \$86.3 million as of December 31, 2010. The waiver called for a cash payment of \$45.0 million on or before December 30, 2010 which would result in the retirement of \$55.0 million in face value of debt. The waiver allowed for the sources of the cash payment to be from cash on hand, sale of collateral or additional subordinated indebtedness. This cash payment resulted in a gain on the extinguishment of the debt of \$10.0 million which is recorded in the Net Realized Gain on Extinguishment of Debt line item on the Consolidated Statement of Income. In addition to the cash payment made on December 30, 2010, the waiver also called for a cash payment of \$12.8 million on or before March 31, 2011 which would result in the retirement of an additional \$15.6 million in face value of debt. The sources of cash available for the March 31, 2011 payment was to consist of cash on hand, sale of collateral or additional subordinated indebtedness.

On March 31, 2011, the Partnership amended the Revolving Credit Agreement a third to extend a number of provisions from the December 28, 2010 waiver, including forbearance from the exercising of remedies for events of default from July 21, 2011 to November 18, 2011. As referred to above, cash of \$12.8 million was paid, retiring \$15.6 million in face value. In order to help fund a portion of the March 31, 2011 repayment, the Partnership obtained loans from its co-founders

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

totaling \$6.7 million. The loans accrue interest at a rate of LIBOR plus five percent and mature on December 31, 2015 with all interest and principal due upon maturity.

The balance as of the date of this report is \$66.7 million.

The fair value of the facility as of December 31, 2010 was approximately \$83.6 million.

Credit Opportunities Master Note Payable

On December 19, 2008, Highland Credit Opportunities CDO Financing, LLC ("CDO Financing"), a wholly-owned subsidiary of Credit Opportunities Master, executed a Note Purchase Agreement (the "Purchase Agreement") with certain investors that provided for the issuance of up to \$218 million of senior secured convertible notes guaranteed by Credit Opportunities Master. Pursuant to the terms of the Purchase Agreement and concurrent with the execution of the Purchase Agreement, CDO Financing issued \$116.6 million of senior secured convertible notes for \$115.6 million of cash and securities with a fair value of \$0.9 million. The proceeds from the notes were used primarily to fund an additional equity investment in Highland Credit Opportunities, Ltd. (the "CDO"). This investment was required under the terms of a forbearance agreement that the Credit Opportunities Master executed with the Majority Controlling Class of the CDO's note holders.

The notes have a stated maturity date of December 31, 2012 and accrue interest on a quarterly basis at a rate of 25% per year. The terms of the Purchase Agreement allow for up to 75% of the accrued interest due at any payment date to be capitalized as additional principal owed to the holders of the notes. For the year ended December 31, 2010, no interest payable was capitalized and \$45.0 million of senior secured convertible notes were repaid. As of December 31, 2010, there are \$83.6 million of senior secured convertible notes outstanding.

Subject to certain conditions, the Purchase Agreement allows for CDO Financing to issue up to \$101.4 million of additional notes to the existing note holders. The Purchase Agreement requires payment of a fee of 2.5% per annum on the unfunded portion of the note commitment. For the year ended December 31, 2010, approximately \$2.6 million of unfunded commitment fees is recorded in interest expense in the Consolidated Statement of Income. As of December 31, 2010, a liability of approximately \$5.3 million is included in interest payable in the Consolidated Balance Sheet. The fees will be paid on the stated maturity date, or on the full repayment of the notes.

Under the terms of the Purchase Agreement, the Credit Opportunities Master was not able to make any prepayments until July 1, 2010. From July 1, 2010 through December 31, 2010, the Credit Opportunities Master could elect to prepay 50% of the outstanding principal balance. After that period, Credit Opportunities Master may prepay all or a portion of the outstanding principal, provided that each partial payment made to the note holders is in an aggregate principal amount of at least \$0.5 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

The Purchase Agreement stipulates a premium due to the note holders upon full or partial payment of the outstanding principal of the notes. The premium due is determined by the date the principal is repaid and is calculated as a percentage of that principal balance, with a minimum of 5% due on the stated maturity date of the notes. The following table presents the premium rates by payment period:

<u>Prepayment Period</u>	<u>Fees</u>
July 1, 2010 - Dec. 31, 2010	15.0%
July 1, 2011 - Dec. 31, 2011	10.0%
July 1, 2012 - Dec. 31, 2012	6.0%
Dec. 31 2012	5.0%

Credit Opportunities Master is accruing the minimum premium due, 5% of the outstanding balance, over the contractual life of the notes using the effective-yield method. For the year ended December 31, 2010, approximately \$0.8 million of this premium due is recorded as a component of interest expense in Credit Opportunities Master's consolidated statement of operations. As of December 31, 2010 a liability of approximately \$1.7 million for the total premium recognized over the life of the notes is included in interest payable in the Consolidated Balance Sheet. Premium of \$6.8 million was paid upon the prepayment during the year and is recorded in interest expenses in the Consolidated Statement of Income.

At the note holders' option, up to 50% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master between January 1, 2010 and June 30, 2010. From July 1, 2010 through December 31, 2012, up to 100% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master. As of December 31, 2010, no unpaid principal or accrued interest on the notes was converted into limited partnership interests in the Feeder Fund or Credit Opportunities Master.

The Purchase Agreement grants the note holders a lien on certain assets held by Credit Opportunities Master. In addition, it requires Credit Opportunities Master and the CDO to comply with various financial covenants. Failure to meet these covenants may result in an event of default and give the note holders the right to accelerate repayment of the debt or initiate a liquidation of certain assets. Credit Opportunities Master was in compliance with the covenants as of December 31, 2010 and for the year then ended.

As of December 31, 2010, the estimated fair value of the notes was approximately \$115.2 million, which is based on value of the risk-adjusted yield from the expected future cash flows of the notes relative to comparable investments. Actual values may vary significantly from the estimates, particularly since the terms of the Company's debt are complex, and the market for the instruments is illiquid.

Highland Capital Management Europe, Ltd. Credit Facility

On December 29, 2010, Highland Europe entered into a \$13.3 million non-recourse credit facility with Natixis Financial Products, LLC. The facility is secured by the management fees of Highland Europe. Payments are made on the 15th day of February, May, August and November until the facility is fully paid down. The facility matures on December 31, 2015. The facility bears interest at a rate of 4.00% per annum. The rate shall be reduced to 3.50% per annum once the principal balance is reduced below \$10.8 million. The rate shall again be reduced to 3.00% per annum once

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

the principal balance is reduced below \$6.2 million. As of December 31, 2010, the estimated fair market value of the facility was approximately \$13.3 million.

HCREA Nolen Drive Note Payable

On September 18, 2006, Nolen Drive entered into a \$7.0 million note payable with Artesia Mortgage Capital Corporation, which is secured by the underlying property in Nolen Drive (the "Term Loan"). The Term Loan matures with all principal and accrued interest due on October 11, 2011. The Term Loan bears interest at a rate of 6.52% per annum. Payments are due on the 11th of every month. As of December 31, 2010, the estimated fair market value of the note was approximately \$7.1 million.

9. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its consolidated entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The consolidated entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the consolidated entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Investment Funds due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Investment Fund's exposure to market risk is affected by a number of factors, including the size, composition and diversification of its investments and swap agreements; interest rates; and market volatility. The Partnership and its Consolidated Investment Funds use various forms of leverage, including notes, which increase the effect of any investment value changes on net assets.

Credit Risk

Credit risk is the potential loss the Partnership and its consolidated entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the consolidated entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the consolidated entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Liquidity Risk

The Consolidated Investment Fund's limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Investment Funds nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the consolidated investment funds. The Consolidated Investment Funds could be materially affected by the liquidity, credit and other events of the Partnership.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

High Yield Bonds and Loans

The Partnership and its Consolidated Investment Funds' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Investment Funds' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

When the Partnership and its Consolidated Investment Funds' purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Investment Funds have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Investment Funds may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

CLO Equity Investments

The Partnership and its Consolidated Investment Funds may invest in CLO equity that are not rated by various credit rating agencies and are generally considered to be speculative with respect to the issuer's ability to repay principal and interest. The yields and prices of these non-rated CLO equity tranches are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further limit their liquidity. The Partnership and its consolidated investment funds are exposed to the potential non-payment of principal and interest from their CLO equity investments. As of December 31, 2010, 1 of the 29 CLO's managed by the Partnership paid interest to the equity holders on their last payment date.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Investment Funds invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Credit Default Swaps

Credit default swaps involve greater risks than if the Partnership or its Consolidated Investment Funds had shorted the reference obligations directly. In addition to the market risk discussed above, credit default swaps are subject to liquidity risk and credit risk. If a credit event occurs, the value of the reference obligation received by the Partnership or its Consolidated Investment Funds, couple with the periodic payments previously received, may be less than the full notional amount it pays to the buyer, resulting in loss of value.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Investment Funds' investments. However, the Consolidated Investment Funds' portfolio could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Investment Funds. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Investment Funds to losses that are disproportionate to market movements as a whole.

Custody Risk

The clearing operations for the Partnership and its Consolidated Investment Funds are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Investment Funds' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Investment Funds may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Investment Funds' might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Investment Funds may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Investment Funds' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Investment Funds. If the value of the Consolidated Investment Funds' securities fall below the margin level required by a counterparty, additional margin deposits are required. If the Consolidated Investment Funds are unable to satisfy a margin call, the counterparty could liquidate the position in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Investment Funds to incur significant losses. In addition, to the extent the Consolidated Investment Funds has posted excess collateral for margin transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Investment Funds' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Investment Funds. In addition, because the use of leverage allows the Consolidated Investment Funds to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Investment Funds may lose in the event of adverse price movements is high in relation to the amount of their investment.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

In the event of a sudden drop in the value of the Consolidated Investment Funds' assets, the Consolidated Investment Funds may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Investment Funds may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Investment Funds have the ability to apply discretionary margin, haircut, financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2010, the Consolidated Investment Funds' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that the Consolidated Investment Funds' are able to realize on the sale of its investments will directly affect the amounts that the investors in the Feeder Funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2010.

Litigation Risk

The Partnership and its Consolidated Investment Funds are periodically subject to legal actions arising from the ordinary course of business. In addition, certain of the Consolidated Investment Funds' Feeder Fund investors have filed lawsuits after receiving notification of the decision to wind-down certain Consolidated Investment Funds' investment portfolios. Refer to Note 17 for a discussion of the open litigation.

10. Related Party Transactions

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2010, approximately \$8.1 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in Other Assets in the accompanying Consolidated Balance Sheet.

Long Term Incentive Plan and Intercompany Loan Payable to Highland Capital Management Services, Inc. ("HCMSI")

Effective January 1, 2001, all of the Partnership's employees were transferred to HCMSI, which provides personnel management and consulting services to the Partnership. The Partnership and

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

HCMSI entered into a management agreement whereby the Partnership compensated HCMSI for its employee expenses plus a consulting services fee. As of January 1, 2005, there were no further transactions with HCMSI as all employees were transferred to the Partnership.

Effective January 1, 2001, HCMSI approved a long-term incentive plan ("the LTIP") for select employees who are eligible to receive Long-Term Incentive Units ("the Units") under the LTIP. The number of Units authorized under the LTIP is 30,000,000 and a majority of the Units granted vest 40% during the grant year and 30% for each of the two years thereafter, expiring 10 years after such grant date, unless different terms are agreed upon between the Plan Administrator and the employee. The fair value of the Units are based upon the fair value of the Partnership, as determined in good faith, by James Dondero, the Plan Administrator and the sole shareholder of the general partner and a limited partner of the Partnership. The LTIP was transferred to the Partnership from HCMSI on January 1, 2005.

The Units are exercisable at the discretion of the Plan Administrator, or upon a triggering event defined as the earlier of the following events:

- Change in control
- Initial public offering
- Participant's voluntary or involuntary termination due to death, disability, retirement, or hardship
- Participant's voluntary or involuntary termination other than due to death, disability, retirement, hardship, or cause is exercisable to the extent the Participant is entitled to only 80% of the vested shares.

A total of 1,104,353 Units are outstanding as of December 31, 2010 under the LTIP. During the year ended December 31, 2010, the liability under the LTIP decreased by approximately \$1.8 million, which is included in *Compensation and benefits* in the Consolidated Statement of Income.

The total balance payable to HCMSI was approximately \$0.9 million as of December 31, 2010, which is related to the LTIP accrual.

Effective December 31, 2004, all of the employees at HCMSI were transferred to the Partnership, and the management agreement between the Partnership and HCMSI was terminated as to the provision of future services. However, all of the outstanding and unfunded obligations of the Partnership to HCMSI as of December 31, 2004, as well as any additional obligations that may arise in relation to these amounts, will continue to be due and payable to HCMSI until satisfied in accordance with the provisions of the agreements in place.

Accounts Held with Related Party

During the year the Partnership and its subsidiaries maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2010, balances in the accounts were approximately \$19.8 million, a portion of which exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Controlling Positions

Various members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. Any director's fees received by the Partnership for these services as directors are paid to and retained by the Partnership. As of December 31, 2010, the Partnership and its subsidiaries held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 14,821
American Home Patient	Common Equity	5,653
Blackwell BMC, LLC	Term Loan	3,547
Blackwell BMC, LLC	Common Equity	28,769
Consolidated Restaurant Companies, Inc.	Term Loan	13,626
Cornerstone Healthcare Group Holding, Inc.	Common Equity	57,171
Cornerstone Healthcare Group Holding, Inc.	Term Loan	18,513
Cornerstone Healthcare Group Holding, Inc.	Loan - Second Lien	5,250
Epocal, Inc.	Preferred Equity	80,419
Ginn LA Resorts Holdings, LLC	Term Loan	1,194
Ginn LA Conduit Lender, Inc.	Loan - Second Lien	33
Highland Long/Short Equity Fund	Mutual Fund	231
Highland Healthcare Fund	Mutual Fund	7,371
Highland Credit Strategies Fund	Closed-End Mutual Fund	4,819
Home Interiors & Gifts, Inc.	Proof of Claims	2
Marcil Paper Mills, LLC	Common Equity	-
Nex-Tech Aerospace Holdings, Inc.	Common Equity	1,206
Romacorp Restaurant Holdings, Inc.	Common Equity	618
Safety-Kleen Inc.	Common Equity	178,486
Solstice Neurosciences, Inc.	Preferred Equity	263
Terrestar	Preferred Equity	1,022
Trussway Industries, Inc.	Common Equity	11,001

During the year ended December 31, 2010, the Partnership did not earn material income from those entities where members of management serve as members of the Board of Directors.

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$6.5 million. At December 31, 2010, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$264.4 million and \$63.9 million, respectively.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Affiliated Transactions

On August 20, 2008, the Partnership issued a promissory note in the amount of \$330,000 to an employee of the Partnership. The note accrues interest at a rate of LIBOR plus 1.75%. The note is payable in one lump sum on the earlier of August 20, 2015 or an event of acceleration. The note has specific forgiveness provisions of principal and interest prior to maturity if certain milestone dates are obtained. As of December 31, 2010, the principal amount on the promissory note was \$212,000 with interest accrued of approximately \$3,000.

In accordance with the terms of a Master Indenture Agreement (the "Indenture") dated November 2, 2006, the Credit Opportunities Master acquired 250,000 Preferred Shares of Highland Credit Opportunities CDO, Ltd (the "CDO"). The Indenture requires Credit Opportunities Master to hold, directly or indirectly, more than 99% of the CDO's outstanding Preferred Shares at all times. As of December 31, 2010, the Credit Opportunities Master held 350,000 Preferred Shares and was the sole beneficial preferred shareholder.

The CDO invests primarily in floating rate syndicated bank loans, fixed income securities, and equity investments. These investments were purchased with funds the CDO received from the issuance of rated floating rate notes and Credit Opportunities Master's purchase of the Preferred Shares. Credit Opportunities Master is the sole beneficiary of all residual income from the CDO's portfolio. Although the Preferred Shares do not have a voting interest in the CDO, they carry certain rights. Specifically, they are entitled to receive quarterly preferential dividends, without requiring any declaration by the Directors, from the date they were issued until they are redeemed.

The Investment Manager serves as the Collateral Manager for the CDO but does not receive any fees for its services to the CDO.

During the fourth quarter of 2008, the CDO failed to meet certain over-collateralization tests set forth in the First Supplement to the Indenture dated November 2, 2006. This breach would have given the CDO's Majority of Controlling Debt Class the option to accelerate repayment of the CDO's outstanding debt or initiate a liquidation of its assets. To protect the value of its investment in the CDO, Credit Opportunities Master entered into a forbearance agreement whereby the Majority Controlling Class of the CDO's note holders waived the breach and agreed not to exercise the rights discussed above. The Majority Controlling Class also agreed to waive any future events of default resulting from the CDO's failure to meet the overcollateralization tests through December 31, 2011. In return, the CDO agreed not make any preferred dividend payments to Credit Opportunities Master until the over-collateralization tests exceed certain thresholds.

Credit Opportunities Master paid certain expenses related to the forbearance agreement, which have been recorded as an increase to the cost basis of its investment in the CDO's Preferred Shares.

The Consolidated Investment Funds periodically enter into transactions to buy or sell securities with affiliated entities. During the year ended December 31, 2010, the Consolidated Investment Funds did not purchase or sell a material amount of securities to affiliated entities.

Services Performed by an Affiliate

In March 2007, Highland Capital of New York, L.P., a New York limited partnership ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2010, total marketing fee expense charged to the Partnership by Highland New York was approximately \$3.7 million and as of December 31, 2010, amounts owed to Highland New York for services rendered was approximately \$1.4 million.

11. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, consolidated statement of income, or its liquidity. See Note 16.

Operating Leases

Future minimum lease payments under operating lease commitments of the Partnership and its consolidated entities with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31,	
2011	\$ 1,757
Thereafter	-
	<u>\$ 1,757</u>

Total rental expense of the Partnership and its consolidated entities for operating leases was approximately \$2.5 million for the year ended December 31, 2010.

Loan Commitments

At December 31, 2010, the Consolidated Investment Funds had unfunded loan commitments of approximately \$1.1 million. Unfunded loan commitments are marked to market on the relevant day of valuation in accordance with the Partnership's valuation policies. Any applicable unrealized gain (loss) and unrealized appreciation (depreciation) on unfunded loan commitments are recorded on the Consolidated Balance Sheet and Consolidated Income Statement, respectively. The net change in unrealized appreciation on unfunded transactions is not material to the Income Statement.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

12. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. Therefore, no new participants shall enter the plan after 2008 and no new benefits shall accrue under the plan after 2008. The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2010 are reconciled in the tables below.

(in thousands)

Change in projected benefit obligation	2010
Benefit obligation at beginning of year	\$ 3,416
Service cost	-
Interest cost	195
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	184
Acquisition/(divestiture)	-
Benefits paid	(437)
Benefit obligation at end of year	<u>\$ 3,358</u>
Change in plan assets	2010
Fair value of plan assets at beginning of year	\$ 3,614
Actual return on plan assets	391
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(437)
Other increase/(decrease)	-
Fair value of plan assets at year end	<u>\$ 3,568</u>
Reconciliation of Funded Status	2010
Accumulated benefit obligation at end of year	\$ 3,358
Projected benefit obligation at end of year	3,358
Fair value of assets at end of year	<u>3,568</u>
Funded status at end of year	<u>\$ 210</u>

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

The Partnership does not expect to contribute to the plan during 2011.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2010:

Discount rate	5.70%
Rate of compensation increase	N/A

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2010:

Discount rate	6.10%
Expected long-term return on plan assets	6.10%
Rate of compensation increase	N/A

As of December 31, 2010, approximately \$0.7 million of the plan assets were categorized as Level 3.

13. Goodwill and Other Intangible Assets

Below is a summary of the Partnership's goodwill and other intangible assets as of December 31, 2010:

(in thousands)

	Carrying Value
Highland Floating Rate Fund	\$ 12,672
Highland Floating Rate Advantage Fund	11,328
Goodwill for Highland Europe	8,020
	<u>\$ 32,020</u>

On April 9, 2004, the Partnership purchased the management agreements of Highland Floating Rate Fund (the "Floating Rate Fund") and Highland Floating Rate Advantage Fund (the "Advantage Fund"), collectively the "Purchased Funds." The combined purchase price for the above agreements was \$24.0 million. The purchase price was allocated among the Purchased Funds pro-rata based on the approximate combined total managed assets of the funds as of the date of purchase. As a result, \$12.7 million of the purchase price was allocated to the Floating Rate Fund and \$11.3 million was allocated to the Advantage Fund.

The Partnership performs an impairment test as required by U.S. GAAP on a yearly basis. The Partnership's management analyzes market multiples on retail asset managers within the industry as of December 31, 2010 to determine fair value of these assets. The Partnership has determined that no impairment charge is necessary for the current year.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

14. Reverse Repurchase Agreements

Credit Strategies Master is party to collateralized financing transactions consisting of securities sold under agreements to repurchase. As of December 31, 2010, Credit Strategies Master held high yield corporate bonds and equities with a fair value of \$39.9 million under reverse repurchase agreements. The gross amount payable to the counterparty (including accrued interest) was approximately \$20.6 million and is recorded as a component of due to brokers in the Consolidated Balance Sheet.

15. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2010, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2007 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2010.

Crusader Master

Crusader Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Crusader Master. Crusader Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Crusader Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Crusader Master's net taxable income.

Since Crusader Master trades investments for its own account, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The General Partner intends to conduct Crusader Master's business in such a way that it does not constitute a U.S. trade or business or create a taxable presence in any of the jurisdictions in which the Investment Manager has offices, including the United Kingdom.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Dividends as well as certain interest and other income received by Crusader Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Crusader Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2010, a withholding tax liability of \$0.3 million is included in the accrued expenses in the Consolidated Balance Sheet.

It is management's responsibility to determine whether a tax position of Crusader Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As a result of adopting this guidance, management has established a reserve of approximately \$12.5 million for uncertain tax positions, which includes approximately \$1.2 million of interest and \$4.0 million of penalties. Of this amount, approximately \$2.7 million related to the current year and was recorded as a tax expense in Statement of Income. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2010.

Crusader Master files tax returns as prescribed the tax laws of the jurisdictions in which it operates. In the normal course of business, Crusader Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2010, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2007 forward.

A wholly owned corporation of Crusader Master has incurred capital losses on the sale of investments that exceed the amount of capital gains it has earned. Management has concluded that the subsidiary is not likely to generate additional gains in future periods and has established a valuation allowance to reserve for the entire amount of the deferred tax asset associated with the unused capital losses.

Credit Opportunities Master

The Credit Opportunities Master has adopted authoritative guidance which requires management to determine whether a tax position of Credit Opportunities Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. Credit Opportunities Master has determined that there was no effect on the financial statements from the application of this guidance. As of December 31, 2010, a liability to account for uncertain tax positions of \$0.2 million is classified within other liabilities within the Consolidated Balance Sheet. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2010.

Credit Opportunities Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Opportunities Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2010, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2007 forward (with limited exceptions).

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

Dividends as well as certain interest and other income received by Credit Opportunities Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Opportunities Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Credit Strategies Master

Credit Strategies Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Credit Strategies Master. Credit Strategies Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Credit Strategies Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Credit Strategies Master's net taxable income.

The Credit Strategies Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Strategies Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2010, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2007 forward (with limited exceptions).

It is management's responsibility to determine whether a tax position of Credit Strategies Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner has determined that there was no effect on the financial statements from the application of this guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2010.

Dividends as well as certain interest and other income received by Credit Strategies Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Strategies Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

A wholly-owned corporation of the Credit Strategies Master incurred approximately \$0.9 million of tax expense on income earned by the entity. No portion of this amount was unpaid as of December 31, 2010.

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

16. Legal Proceedings

In April 2007, CDO Master Fund entered into a risk sharing agreement structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Special Opportunities Holding Company ("SOHC"). The warehouse was financed by a reputable financial institution and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, the counterparty agreed to extend it for one year on March 15, 2008. Due to liquidity constraints, CDO Master Fund was unable to meet a November call, and the counterparty elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by the counterparty and sold on the open market through bids-wanted-in competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, the counterparty notified CDO Master Fund that its pro-rata share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount. On February 24, 2009, the counterparty (the "Plaintiffs") filed a lawsuit against CDO Master Fund, SOHC and the Partnership in the New York State Supreme Court of Manhattan alleging that they suffered losses in excess of \$745 million due to the depreciation in value of the warehouse collateral. On February 19, 2010 a New York Appeals Court sided with the Partnership and dismissed UBS' claims against the Partnership. Thereafter on June 22, 2010, Plaintiffs filed an amended complaint with the Court against the Partnership and certain affiliated registered and unregistered investment vehicles alleging \$687 million in damages. On March 15, 2011, the First Appellate Division heard the Partnership's appeal of the ruling regarding dismissal of the amended complaint. The First Appellate Division has not yet issued a ruling on this matter.

In April 2009, HYMF, Inc. filed a lawsuit in the New York State Court against the Partnership and certain consolidated investment funds (collectively "the Defendants"). The lawsuit alleges that the Defendants breached their contractual and fiduciary duties by failing to return HYMF's original investment in the consolidated investment funds. The Defendants intend to vigorously defend against the lawsuit. At this time, management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

On July 15, 2008, Crusader Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida. The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. Based on the ruling, Crusader Master recorded a reserve of approximately \$5.3 million as of December 31, 2010, which represents its ratable share of the judgment. However, the Defendants believe they acted in good faith pursuant to the terms of the relevant agreements and intend to appeal the decision. The reserve is included as a component of accrued expenses on the Consolidated Balance Sheet and a component of net realized losses from investment transactions on the Consolidated Statement of Income.

During the first quarter of 2009, certain investors in Highland Credit Strategies Fund, Ltd. filed lawsuits in response to the decision to wind-down Credit Strategies Master's investment portfolio. They have made various claims, including breach of fiduciary duties, negligence, tortious

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

interference with the payment of redemption amounts, and/or fraud. Both the Partnership and Highland Credit Strategies Fund, Ltd. have been named as parties to the lawsuits. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty. As of December 31, 2010, approximately \$1.3 million of required cash payments made by Credit Strategies Master to retain legal firms to defend these matters are included in Other Assets in the Consolidated Balance Sheet.

17. Fund Wind Down

On February 4, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent and that it was in the best interest of the fund to liquidate the fund's remaining assets. The proceeds from the asset liquidations will be distributed to the remaining financing counterparties and other senior and trade creditors as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

During 2008, Crusader Master and Credit Strategies Master were negatively affected by deteriorating conditions in the overall economy and credit markets. These conditions became more severe during the third and fourth quarters of 2008 and generated significant losses on various derivative transactions and repurchase agreements to which Crusader Master and Credit Strategies Master were parties. In addition, certain assets that Crusader Master and Credit Strategies Master purchased on margin through prime brokerage agreements experienced a significant decline in value. In certain cases, Crusader Master and Credit Strategies Master were unable to post the collateral required to secure these losses, and the counterparties provided notice of their intent to terminate the agreements. As a result, access to the credit that Crusader Master and Credit Strategies Master used to manage its investing and financing activities became highly constrained, and in some cases unavailable. In light of these circumstances, the General Partners (the general partner of Highland Crusader Fund, L.P. and the general partner of Highland Credit Strategies Fund, L.P.) and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. concluded, in consultation with the Investment Manager, that it would be in the best interests of their investors to wind down the investment portfolios of Credit Strategies Master and Crusader Master. On October 15, 2008, the Investment Manager notified investors that it would begin the wind-down process. The Investment Manager also restricted subscriptions and the payment of withdrawals to the Feeder Funds effective the same date.

In connection with the wind down, the limited partner interests of the Feeder Funds were compulsorily withdrawn/redeemed on November 15, 2008 in accordance with the terms of the governing documents. The General Partner has suspended payment of distributions, and any outstanding balances with respect to withdrawal and/or redemption amounts. A formal plan of liquidation has not been finalized by management, and there are no assurances that investors will realize the remaining equity balance over the course of the wind down. Distributions will ultimately be made on a pro-rata basis based on the respective redemption amounts as of November 15, 2008 unless a plan of distribution dictates otherwise. Future distributions will be made as the value of Crusader Master and Credit Strategies Master's investments are realized and all obligations due to counterparties and service providers of Crusader Master, Credit Strategies Master, and the Feeder Funds have been satisfied.

Subsequent to December 31, 2010 a Plan of Distribution was agreed to for Credit Strategies Master. See Note 18 for additional discussion.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2010

As of December 31, 2010, the estimated value of the partners' capital available for distribution from Crusader Master to its Feeder funds was approximately \$1,488.7 million. The actual amounts that will be distributed upon completion of the wind down process are inherently uncertain. The Investment Manager estimates that the wind down could take up to four years to complete. Capital will be distributed as it becomes available in accordance with a plan of distribution, once approved and implemented.

On October 14th 2010, certain investors in Highland Crusader Fund II, Ltd. presented a Petition to Wind-Up the Fund to the Supreme Court of Bermuda Companies (Winding Up) Commercial Court ("the Court") for the purpose of appointing a liquidator. If a Winding-Up Order is issued, a liquidator will be appointed and the liquidator will take steps to collect in and realize the company's assets and will deal with creditors' claims. If a Winding-Up order is not issued by the Court, the Investment Manager will continue to work on finalizing a formal plan of distribution with all interested parties. Crusader Master and consequently the other Feeder Funds are not parties to this petition, but could be subject to subsequent actions taken by the creditors, shareholders, or the Court. The Investment Manager believes it is currently not possible to evaluate the likelihood of any particular outcome from the matter at this point. The matter is currently scheduled to be decided by the Court at a hearing commencing on May 30, 2011.

18. Subsequent Events

On January 4, 2011 and February 4, 2011 Credit Opportunities Master elected to prepay \$10.0 million and \$17.0 million of the outstanding principal balance of the notes, respectively, including interest and prepayment premium.

Crusader Master had previously recorded a reserve of approximately \$5.3 million relating to an unfavorable decision in a legal case that involved Crusader Master. In February 2011, the District Court of Florida quashed the judgment against the Defendants and overturned the ruling that resulted in Crusader Master recording the reserve. Crusader Master does not believe an appeal of this decision will be successful and relieved the reserve, which will be reflected in the Consolidated Statement of Income for the year ending December 31, 2011.

On March 31, 2011, the Partnership amended the Revolving Credit Agreement a third time to extend a number of provisions from the December 29, 2010 waiver. A discussion of the amendment can be found in Note 8.

On March 31, 2011, the Partnership obtained loans from its co-founders totaling \$6.7 million. A discussion of the loans can be found in Note 8.

In April 2011, the Bermuda Commercial Court approved a plan to distribute the assets of Credit Strategies Master. The Scheme of Arrangement for the offshore fund and Plan of Distribution for the onshore fund were implemented on May 1, 2011. As part of the arrangement, the Partnership paid \$3.0 million to Credit Strategies Master.

In April 2011, the Partnership entered into a 10-year lease agreement with Crescent TC Investors, L.P.

Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2010

(in thousands)

The above information was derived from the audited December 31, 2010 consolidated financial Statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

Assets

Current assets:

Cash and cash equivalents	\$	1,991
Restricted cash		1,656
Investments at fair value (cost \$72,055)		65,749
Equity method investees		17,926
Management and incentive fees receivable		15,282
Due from brokers		137
Other current assets		13,317
Deferred incentive fees receivable		35,883
Purchased investment management contracts		24,000
Goodwill and other intangible assets, net		388
Fixed assets and leasehold improvements, net of accumulated depreciation of \$10,237		4,830

\$ 181,159

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	2,187
Accrued and other liabilities		59,488
Debt and notes payable		86,296
Long-term incentive plan		1,081

Total liabilities 149,052

Partners' capital 32,107

Total liabilities and partners' capital \$ 181,159

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
December 31, 2010

(in thousands)

The above information was derived from the audited December 31, 2010 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

Revenue:

Management fees	\$ 78,353
Incentive fees/allocations	8,066
Interest and investment income	2,286
Other income	<u>11,193</u>
Total revenue	<u>99,898</u>

Operating expenses:

Compensation and benefits	48,802
Professional fees	10,294
Investment and research consulting	785
Amortization and depreciation	1,820
Interest expense	8,353
Other operating expenses	<u>19,275</u>
Total operating expenses	<u>89,329</u>

Income/(loss) before investment activities	<u>10,569</u>
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Realized and unrealized gain/(loss) from investments transactions:

Net realized loss on sale of investment transactions	(7,866)
Net change in unrealized gain on investments	<u>14,628</u>
Total realized and unrealized loss from investments transactions	6,762

Realized and unrealized earnings from equity method investee:

Net unrealized losses from equity method investees	<u>(990)</u>
Total realized and unrealized losses from equity method investees	(990)

Net realized gain on extinguishment of debt	10,000
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Net income	<u>\$ 26,341</u>
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EXHIBIT 66

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

**Consolidated Financial Statements and
Supplemental Information
December 31, 2011**

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

Index

December 31, 2011

	Page(s)
Report of Independent Auditors	1
Audited Consolidated Financial Statements	
Balance Sheet	2
Statement of Income	3
Statement of Changes in Partners' Capital	4
Statement of Cash Flows	5
Notes to Financial Statements	6–44
Supplemental Information	45–47



Report of Independent Auditors

To the General and Limited Partners of
Highland Capital Management, L.P.:

In our opinion, the accompanying consolidated balance sheet and the related consolidated statements of income, of changes in partners' capital and of cash flows (hereinafter referred to as the "financial statements") present fairly, in all material respects, the consolidated financial position of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership") at December 31, 2011, and the results of their operations, the changes in their partners' capital, and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audit. We conducted our audit of these statements in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The supplemental unconsolidated balance sheet and statement of income are presented for purposes of additional information, and are not a required part of the basic consolidated financial statements. Such information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and, in our opinion, is fairly stated in all material respects in relation to the consolidated financial statements taken as a whole.

PricewaterhouseCoopers LLP

May 21, 2012

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Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2011

(in thousands)

Assets

Cash and cash equivalents	\$	74,668
Restricted cash		14,691
Investments at fair value (cost \$2,901,075)		1,926,277
Unrealized gains on derivative contracts		162
Management and incentive fees receivable		29,402
Due from brokers		20,708
Other assets		26,800
Deferred incentive fees receivable		29,428
Goodwill and other intangible assets		8,020
Fixed assets and leasehold improvements, net of accumulated depreciation of \$11,562		6,869
Total assets	\$	2,137,025

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	2,048
Securities sold, not yet purchased (proceeds \$6,134)		8,390
Withdrawals payable		15,516
Obligations to return collateral		6,792
Interest payable		11,326
Due to brokers		370,711
Due to brokers for securities purchased not yet settled		66,882
Accrued and other liabilities		70,256
Secured borrowing		3,812
Debt and notes payable		114,813

Total liabilities		670,546
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Non-controlling interest		1,427,281
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Commitments (Note 11)

Partners' capital		39,198
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Total liabilities and partners' capital	\$	2,137,025
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The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Income
December 31, 2011

(in thousands)

Revenue:	
Management fees	\$ 154,218
Incentive fees/allocations	1,381
Interest and investment income	136,483
Other income	13,772
Total revenue	<u>305,854</u>
Expenses:	
Compensation and benefits	56,455
Professional fees	30,717
Investment and research consulting	708
Amortization and depreciation	1,346
Interest expense	26,416
Tax expense	4,999
Other expenses	21,155
Total expenses	<u>141,796</u>
Income before investment and derivative activities	<u>164,058</u>
Realized and unrealized gain/(loss) from investment and derivative transactions:	
Net realized loss on investment and derivative transactions	(373,502)
Net change in unrealized gain on investment and derivative transactions	335,343
Total realized and unrealized loss from investment and derivative transactions	<u>(38,159)</u>
Extraordinary Items	
Net realized gain on extinguishment of debt	2,823
Novation of purchased investment management contracts	(24,000)
Fund wind down costs (Note 17)	(23,292)
Net income	81,430
Net income attributable to the non-controlling interest	<u>(55,183)</u>
Net income attributable to Highland Capital Management, L.P.	<u>\$ 26,247</u>

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2011

(in thousands)

	<u>General Partner</u>	<u>Limited Partners</u>	<u>Total</u>
Partners' capital, December 31, 2010	\$ 495	\$ 31,612	\$ 32,107
Net income attributable to Highland Capital Management, L.P.	-	26,247	26,247
Partner distributions	<u>(105)</u>	<u>(19,051)</u>	<u>(19,156)</u>
Partners' capital, December 31, 2011	<u>\$ 390</u>	<u>\$ 38,808</u>	<u>\$ 39,198</u>

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2011

(in thousands)

Cash flows from operating activities:

Net income	\$ 81,430
Adjustment to reconcile net income to cash and cash equivalents provided by operating activities:	
Net realized loss on investments and derivative transactions	373,502
Net realized gain on extinguishment of debt	(2,823)
Net change in unrealized gain on investments and derivative transactions	(335,343)
Net change in unrealized gain from securities sold, not yet purchased	(4,783)
Deferred tax expense on unrealized gains	1,068
Amortization and depreciation	1,346
Changes in assets and liabilities:	
Restricted cash	14,410
Management and incentive fee receivable	(11,791)
Deferred incentive fees	6,455
Investment management contracts	24,000
Other assets	11,005
Due from brokers	12,392
Accounts payable	(150)
Accrued and other liabilities	(19,948)
Due to brokers for unsettled trades	(666)
Interest payable	4,265
Withdrawals payable	(220)
Long-term incentive plan	(1,081)
Obligations to return collateral	6,792
Net cash provided by operating activities	<u>159,860</u>

Cash flows from investing activities:

Purchases of fixed assets and leasehold improvements, net	(3,381)
Purchases of investments	(169,981)
Proceeds from dispositions of investments	562,705
Purchases of investments to cover securities sold, not yet purchased	(15,650)
Net cash provided by investing activities	<u>373,693</u>

Cash flows from financing activities:

Payments on long-term debt	(25,756)
Payments on revolving debt and promissory notes	(26,991)
Payments on affiliate loans, net	(6,614)
Due to brokers	(50,349)
Capital contributions from minority interest investors of consolidated entities	107,394
Capital withdrawals by minority interest investors of consolidated entities	(533,528)
Partner distributions	(19,156)
Net cash used in financing activities	<u>(555,000)</u>

Net decrease in cash and cash equivalents (21,447)

Cash and cash equivalents

Beginning of year	96,115
End of year	<u>\$ 74,668</u>

Supplemental disclosure of cash flow information:

Interest paid during the year \$ 26,768

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment advisor under the Investment Advisors Act of 1940 that manages collateralized loan obligations ("CLOs"), hedge funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is 100% owned by senior management of the Partnership.

As of December 31, 2011, the Partnership provided investment advisory services for twenty-eight CLOs, five separate accounts, one registered investment company, one master limited partnership, and fourteen hedge fund structures, with total fee-earning assets under management of approximately \$19.8 billion.

2. Liquidity Considerations

As further discussed in Note 8, the Partnership has a Revolving Credit Facility (the "Credit Agreement") originally scheduled to mature on July 21, 2011. Forbearance from the exercising of remedies for events of default was extended from July 21, 2011 through April 30, 2012 and subsequent to year-end, was further extended from April 30, 2012 to May 2, 2013. See further discussion in Note 8. The Credit Agreement is collateralized by assets of the Partnerships with an estimated fair value of approximately \$115 million at December 31, 2011.

3. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIE's (collectively referred to as the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005
- Highland Credit Opportunities CDO, L.P. ("Credit Opportunities Master"), a Delaware limited partnership that commenced operations on December 29, 2005;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore") a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore") a Delaware limited partnership that commenced operations on September 2, 2008; and

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Management Europe, Ltd. ("Highland Europe"), a company organized in the United Kingdom and purchased by the Partnership on April 6, 2005;
- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 59% interest in HCREA Nolen Drive, L.P, a Texas limited partnership that commenced operations on July 17, 2006;
- 100% interest in Highland Special Situations Fund, a Delaware statutory trust that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, as a non-diversified, closed-end management investment company, and commenced operations on May 18, 2005.
- 100% interest in Highland Energy and Materials Fund, a Delaware statutory trust that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as amended, as a non-diversified, closed-end management investment company, and commenced operations on December 1, 2011.

All significant interpartnership and intercompany accounts and transactions have been eliminated in consolidation of all of the aforementioned consolidated entities. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Reclassifications

Previously reported amounts for the prior year have in some instances been reclassified to conform to the current year presentation.

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2011, the Partnership and its consolidated entities recognized management and incentive fees of approximately \$154.0 million, and \$1.4 million, respectively. The Partnership recognized approximately \$1.8 million of appreciation on incentive fees earned prior to 2008, previously deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the Consolidated Statement of Income.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Derivative Contracts

Credit Default Swaps are marked-to-market based upon values from third party vendors or broker quotations and the change in value is recorded as unrealized appreciation/depreciation. Swap contracts with cumulative unrealized gains as of a reporting date are recorded as assets on the Consolidated Balance Sheet, while swap contracts with cumulative unrealized losses as of the reporting date are recorded as liabilities. Upfront payments made/received by the Consolidated Funds are amortized or accreted for financial reporting purposes, with the unamortized or unaccreted portion included in the Consolidated Balance Sheet. A termination payment by the counterparty or the Consolidated Funds is recorded as a realized gain or loss, as well as the net periodic payments received or paid by the Consolidated Fund.

Dividends, Interest and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. Of the entities consolidated, only Highland Europe is subject to these provisions. See further discussion in Note 15..

Extraordinary Items

Extraordinary items consist of events or transactions of a material nature that are both unusual in nature and infrequent in occurrence. An event or transaction is unusual in nature if it is abnormal and clearly unrelated to typical activities of the business. It is infrequent in occurrence if it is not reasonably expected to recur in the foreseeable future.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Foreign cash of \$1.4 million is included in the cash and cash equivalents on the consolidated balance sheet. A portion of cash and cash equivalents exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash on the Consolidated Balance Sheet.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Debt Securities

The Consolidated Funds invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Consolidated Funds first seek to obtain reliable market quotes from other parties dealing in the specific asset. Absent both a reliable market quote and third-party pricing service data, the Consolidated Funds may use various models to establish an estimated exit price. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Private Equity Investments

The Consolidated Funds hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Consolidated Funds will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publically available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances.

Asset Backed Securities

The Consolidated Funds invest in a variety of asset backed securities. Asset backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Funds generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Funds evaluate the results based on visible market activity and market research. When appropriate, the Consolidated Funds may apply other techniques based on a specific asset's characteristics.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Credit Default Swaps

As discussed in Note 7, under a credit default swap agreement two parties agree to transfer the credit exposure of an asset between one another. The seller of the swap guarantees the credit worthiness of a specific instrument by agreeing to pay the buying party a specific amount (generally par value) in the event that the instrument defaults.

At December 31, 2011, the Partnership's Consolidated Investment Funds were party to credit default swaps in which they act as the guaranteeing party. In the event that any of the underlying instruments default prior to the expiration of the agreements, the Consolidated Investment Funds are obligated to pay the swap counterparty the par value of the specific instrument. The Consolidated Investment Funds collect a fee based on the size of the underlying positions which are treated as realized gains once received. The difference between the current market value of the swaps and the original price of the swap is reported as an unrealized gain or loss.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand. Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash or securities. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender.

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Investment Manager's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Securities Loaned

The Partnership's Consolidated Investment Funds may lend securities to their financing counterparties for margin. The lending entity receives the interest associated with the securities loaned. The loans are secured by the fair value of the securities. Gains or losses in the fair value of the securities loaned that occur during the term of the loan will be for the account of the lender. The lender has the right under the lending agreement to recover the securities from the prime brokers on demand. The lender pays a fee to the broker for the cash collateral received. This is accounted for as interest expense. A credit risk exists to the lender under this type of transaction to the extent that the counterparty defaults on its obligation to return the securities loaned.

Revolving Credit Agreements

The funded portion of revolving credit agreements is recorded at fair value on the Consolidated Balance Sheet as a component of investments, net of the fair value of unfunded commitments for which the Consolidated Funds may be liable in the future (Note 11).

Margin Transactions

In order to obtain more investable cash, the Consolidated Investment Funds may use various forms of leverage including purchasing securities on margin. A margin transaction consists of

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing. Such leverage may allow the Partnership and its subsidiaries to increase net assets at a greater rate during increasing markets, but also may lead to a more rapid decrease in net assets in a declining market.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2011. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. Withdrawals payable may be treated as capital for purposes of allocations of gains/losses pursuant to the partnerships' governing documents. At December 31, 2011, the Consolidated Investment Funds had withdrawals payable of \$15.5 million.

Foreign Currency Transactions

The Partnership's subsidiary Highland Europe uses British Pounds as its functional currency and enters into transactions in multiple foreign currencies. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2011. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the consolidated statement of income.

The Consolidated Investment Funds do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments*.

Financial Instruments

The Partnership and its consolidated entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Life Settlement Contracts

One of the Partnership's Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. The contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of "Purchase of investments" and "Proceeds from the disposition of investments" on the Consolidated Statement of Cash Flows.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Goodwill and Other Intangible Assets

The Partnership purchased Highland Europe on April 6, 2005. Goodwill represents the amount paid in excess of the fair value of the assets of Highland Europe at the date of acquisition. No goodwill impairments existed as of December 31, 2011.

Recently Issued Accounting Standards and Interpretations

In May 2011, the Financial Accounting Standards Board issued Accounting Standards Update 2011-04 "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRS" ("ASU 2011-04"). ASU 2011-04 includes common requirements for measurement of and disclosure about fair value between U.S. GAAP and International Financial Reporting Standards ("IFRS"). ASU 2011-04 will require reporting entities to disclose quantitative information about the unobservable inputs used in the fair value measurements categorized within Level 3 of the fair value hierarchy. The new and revised disclosures are effective for interim and annual reporting periods beginning after December 15, 2011. At this time, management is evaluating the implications of ASU 2011-04 and its impact on the financial statements has not been determined.

In June 2011, the FASB amended existing standards to comprehensive income to require all non-owner changes in stockholders' equity be presented either in a single continuous statement of comprehensive income or in two separate but consecutive statements. Under Accounting Standards Update 2011-05, "Presentation of Comprehensive Income", the option to present the components of other comprehensive income as part of the statement of changes in stockholders' equity has been eliminated. In addition, it requires an entity to present reclassification adjustments on the face of the financial statements from other comprehensive income to net income. The guidance is effective for non-public filers during interim and annual periods beginning after December 15, 2012, and as such, the Partnership has not adopted this guidance for the year ending December 31, 2011.

In December 2011, the FASB amended existing standards to require an entity to disclose information about offsetting and related arrangements to enable users of its financial statements to evaluate the effect or potential effect of netting arrangements on an entity's financial position, including the effect or potential effect of rights of setoff associated with certain financial instruments and derivative instruments. The guidance, Accounting Standards Update No. 2011-11 "Balance Sheet – Disclosures about Offsetting Assets and Liabilities", is effective for annual reporting periods beginning on or after January 1, 2013, and interim periods within those annual periods, with retrospective disclosures required for all comparative periods presented. The Partnership is currently evaluating the impact of this accounting update on our financial disclosures but do not expect the update to have a material impact on financial position or results of operations.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

4. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2011:

(in thousands)

Buildings	\$ 2,595
Leasehold improvements	4,242
Computer and equipment	3,758
Furniture and fixtures	2,474
Computer software	2,349
Construction-in-Progress	3,013
Accumulated depreciation	<u>(11,562)</u>
	<u>\$ 6,869</u>

The Partnership and its consolidated entities are depreciating fixed assets as follows:

	<u>Period</u>
Buildings	29 - 40 years
Leasehold improvements	Lease term
Computer and equipment	5 years
Furniture and fixtures	7 years
Computer software	3 years

Depreciation expense in 2011 totaled approximately \$1.3 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

5. Investments

Detailed below is a summary of the Partnership's investments at December 31, 2011:

(in thousands)

	Amortized Cost/Cost	Fair Value
Syndicated bank loans	\$ 358,557	\$ 161,418
Fixed income securities	489,703	273,832
Equity securities	1,400,491	1,079,044
Life settlement contracts	307,677	175,700
CLOs (mezz tranches)	38,246	22,083
CLOs (residual CLO equity tranches)	31,077	8,163
Closed-end mutual funds	10,997	12,928
Private placement real estate	84,951	358
Limited partnerships	179,376	180,399
Rights and Warrants	-	12,352
Total investments	<u>\$ 2,901,075</u>	<u>\$ 1,926,277</u>
Credit default swaps	<u>\$ -</u>	<u>\$ 162</u>
	Proceeds	Fair Value
Securities sold, not yet purchased	<u>\$ 6,134</u>	<u>\$ 8,390</u>

Affiliated Investments

Investments in Residual CLO Equity and Mezzanine Tranches

Investments in affiliated residual CLO equity tranches primarily represent tranches of CLOs for which the Partnership and Highland Europe provide investment advisory services. The Consolidated Investment Funds receive quarterly distributions based on the excess interest after paying the stated interest distributions to the senior and mezzanine note holders, and paying the investment manager, trustee and other related fees. A portion of these distributions are amortized against the cost basis of the investment based on the actual cash distributions received during the year versus the total expected remaining cash distributions to the residual CLO equity tranche. The remainder of the distribution is recorded as interest income.

Investments in residual equity and mezzanine tranches of CLOs are not actively traded. The estimated fair value of the CLOs is derived from broker quotes and valuation models. The estimated fair value of these investments as presented in the consolidated balance sheet does not necessarily represent the amount that could be obtained from the sale of these investments. Changes in the credit quality or the performance of the underlying collateral, the availability and price of assets available for reinvestment, interest rates and/or the interest rate curve, or other market conditions could have a material impact on the estimated fair value of the investments.

Investment in Pyxis Long/Short Equity Fund

The Partnership invests in Pyxis Long/Short Equity Fund ("HEOF"), a diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in HEOF was approximately \$0.2 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Investment in Pyxis Healthcare Fund

The Partnership invests in Pyxis Healthcare Fund ("HHF"), a non-diversified, open-end RIC for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in HHF was approximately \$7.0 million.

Investment in Pyxis Credit Strategies Fund

The Partnership invests in Pyxis Credit Strategies Fund ("HCF"), a diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in HCF was approximately \$3.9 million. During the year ended December 31, 2011, the Partnership received approximately \$0.3 million in dividends from HCF.

Investment in Pyxis Energy and Materials Fund

The Partnership invests in Pyxis Energy and Materials Fund ("HEF"), a non-diversified, closed-end RIC for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in HEF was approximately \$3.0 million.

Investment in Highland Diversified Credit Fund

The Partnership invests in Highland Diversified Credit Fund ("DCF"), a hedge fund for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in DCF was approximately \$2.2 million.

Investment in Cummings Bay Healthcare Fund

The Partnership invests in Cummings Bay Healthcare Fund, L.P. ("Cummings Bay"), a hedge fund for which the Partnership provides investment advisory services. As of December 31, 2011, the market value of the Partnership's investment in Cummings Bay was approximately \$3.0 million.

Prepaid Forward Contract

On July 28, 2006, Highland Multi-Strategy Onshore Master Subfund I, LLC ("Subfund") and Barclays Bank PLC ("Barclays") entered into a prepaid forward contract. The Partnership and affiliates redeemed approximately \$312.7 million of a reference portfolio, which was comprised of the following basket of funds advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund and Select Equity Fund. Barclays simultaneously contributed approximately \$312.7 million as a hedge to its obligation under the prepaid forward contract.

Barclays was prepaid approximately \$156.3 million, or one-half of the reference portfolio value at initiation of the transaction. A notional amount, (the initial reference portfolio value less the amount prepaid), accretes interest to Barclays at monthly LIBOR plus 0.90% per annum.

A collateral account in the amount of approximately \$53.2 million was established to further secure the transaction. Due to extreme market volatility, all of the underlying holdings in the collateral account were sold during 2008.

The term of the prepaid forward contract was three years and allowed for net settlement upon termination. The contract expired on July 31, 2009 whereby Barclays was to remit in cash the greater of the difference between the reference portfolio value and the notional amount, as valued on the scheduled termination date, or zero. Upon expiration, Barclays was not obligated to make a cash payment to the Subfund.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

On October 7, 2008, Barclays submitted a notice of early termination for the prepaid forward contract.

Accreting Strike Option

On February 28, 2007, Highland Multi-Strategy Onshore Master Subfund II, LLC entered into an Accreting Strike Option ("ASO") with Barclays. The ASO's value is based on the following basket of funds ("the reference portfolio") advised by the Partnership: Highland Crusader Offshore Fund II, Ltd., Credit Strategies Domestic Feeder, Highland CDO Opportunity Fund, Ltd., Real Estate Fund, Equity Focus Fund, Select Equity Fund and Credit Opportunities Domestic Feeder. The value of the reference portfolio at inception was approximately \$250.2 million.

Barclays was paid a \$71.4 million premium on the option. The strike price, (the initial reference portfolio value less the premium paid), accretes interest to Barclays at monthly LIBOR plus 1.4% per annum. As of December 31, 2011, the strike price was approximately \$185.6 million.

The term of the accreting strike option is five years and allows for net settlement upon termination. At contract expiration, Barclays will remit in cash the greater of the difference between the reference portfolio value and the strike price, as valued on the scheduled termination date, or zero. As of December 31, 2011, the ASO did not have a positive net fair value. As such, no amount was recorded in the Partnership's financial statements.

Detailed below is a summary of the transaction as of December 31, 2011:

(in thousands)

<u>Reference Portfolio</u>	<u>Value</u>
Select Equity Fund	\$ 117,395
Crusader Domestic Feeder	16,295
Equity Focus Fund	5,436
Credit Opportunities Domestic Feeder	3,915
Real Estate Fund	-
Highland CDO Opportunity Fund, Ltd.	-
Credit Strategies Domestic Feeder	-
Reference Portfolio Total	\$ 143,041
Notional Amount	\$ (185,577)
Deficit of Reference Portfolio Total to Notional Amount	\$ (42,536)

On October 13, 2008, Barclays served notice of early termination for the accreting strike option.

6. Fair Value of Financial Instruments

Fair Value Measurement

In accordance with the authoritative guidance on fair value measurements and disclosures under U.S. GAAP, the Consolidated Investment Funds disclose the fair value of their investments in a

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

hierarchy that prioritizes the inputs to valuation techniques used to measure the fair value. The hierarchy gives the highest priority to valuations based upon unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to valuation based upon unobservable inputs that are significant to the valuation (level 3 measurements). The guidance establishes three levels of the fair value hierarchy as follows:

- Level 1 – Valuation based on quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Investment Funds have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active that are reflective of recent market transactions; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Investment Funds use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

Whenever possible, the Partnership and its Consolidated Investment Funds use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Investment Funds develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

As of December 31, 2011, the Partnership and its consolidated entities' investments consisted of floating rate syndicated bank loans, high yield corporate bonds, CLO securities, private placements, private placement real estate debt and equity, life settlement contracts and common and preferred equity securities. In addition, the consolidated entities engage in short sale transactions and are parties to various credit default swaps. The majority of these financial instruments are not listed on national securities exchanges, and management is required to use significant judgment to estimate their values.

The fair value of the loans, corporate bonds and CLO securities are generally based on quotes received from brokers or independent pricing services, which may or may not reflect actual trade

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

activity. The policy of the Partnership and its consolidated subsidiaries is to classify loans and bonds that are priced in this manner as Level 3 assets because the markets in which they trade are not active and the inputs used by the brokers and pricing services are not readily observable. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

The consolidated entities' private placement real estate investments include equity interests in limited liability companies and debt issued by entities that invest in commercial real estate. The fair value of these investments is based on internal models developed by the Partnership. The significant inputs to the models include cash flow projections for the underlying properties and appraisals performed by independent valuation firms. These inputs are not readily observable, and the investments are classified as Level 3 assets.

Common and preferred equity securities traded on national exchanges are valued at their closing prices as of December 31, 2011. These securities are classified as Level 1 assets. The consolidated entities also hold certain equity securities for which no active market exists. The value of these securities, which are classified as Level 3 assets, is based on a combination of broker quotes and internal valuation models.

Life settlement contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. Since these inputs are not readily observable, they are classified as Level 3 assets.

The fair value of credit default swaps is based on quotes received from an independent pricing service. The inputs used to derive the quotes are not readily observable and are therefore classified as Level 3 liabilities.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Investment Fund's investments and derivatives at December 31, 2011 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2011:

(in thousands)

Assets	Level 1	Level 2	Level 3	Total Fair Value at 12/31/11
Loans	\$ -	\$ 21,912	\$ 139,506	\$ 161,418
Bonds & Asset Backed Securities	-	177,207	96,625	273,832
Collateralized loan obligations	-	-	30,246	30,246
Rights & Warrants	463	253	11,636	12,352
Private placement real estate	-	-	358	358
Limited partnership interest	-	-	180,399	180,399
Common equity securities	204,344	56,832	365,293	626,469
Mutual Funds	12,928	-	-	12,928
Privately held equity	-	-	271,137	271,137
Life Settlement Contracts	-	-	175,700	175,700
Preferred stock	-	-	181,438	181,438
Total	\$ 217,735	\$ 256,204	\$ 1,452,338	\$ 1,926,277

Liabilities

Securities sold, not yet purchased	\$ 8,390	-	-	\$ 8,390
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The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement. The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2011:

(in thousands)

	Total Fair Value at December 31, 2010	Purchases	Sales and Maturities	Transfers Into Level 3	Transfers Out of Level 3	Net Realized Losses	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2011
Loans	\$ 226,453	\$ 57,806	\$ (150,996)	\$ -	\$ (356)	\$(251,924)	\$ 258,523	\$ 139,506
Bonds & Asset Backed Securities	302,177	36,335	(253,458)	-	-	(46,110)	57,681	96,625
Collateralized loan obligations	28,614	73	(7,449)	-	-	1,875	7,133	30,246
Rights & Warrants	1,244	-	-	-	(309)	(6,097)	16,798	11,636
Private placement real estate	524	-	1,170	-	-	(32,410)	31,074	358
Limited partnership interest	150,775	2,974	22,000	-	-	(8,113)	12,763	180,399
Common equity securities	316,209	23	39,069	-	-	(26,160)	36,152	365,293
Mutual Funds	-	-	-	-	-	-	-	-
Privately held equity	289,864	16,362	(18,000)	-	-	-	(17,089)	271,137
Life Settlement Contracts	171,698	36,573	(20,000)	-	-	12,621	(25,192)	175,700
Preferred stock	138,824	1,573	49,477	-	-	2,239	(10,675)	181,438
	\$1,626,382	\$ 151,719	\$ (338,187)	\$ -	\$ (665)	\$(354,079)	\$ 367,168	\$1,452,338

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to a decline or an increase in market activity (e.g. frequency of trades), which resulted in a lack of or increase in available market inputs to determine price. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2011.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

All net realized and unrealized gains and losses in the tables above are reflected in the accompanying Consolidated Income Statement. Approximately \$104.2 million of the net unrealized losses presented in the table above relate to investments held as of December 31, 2011.

The following table provides a summary of the derivative contracts recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2011:

(in thousands)

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total</u>
Derivative contracts, asset	\$ -	\$ -	\$ 162	\$ 162

The following table provides a roll forward of the derivative contracts classified within Level 3 for the year ended December 31, 2011:

(in thousands)

Estimated Fair Value as of December 31, 2010	\$ 953
Settlement of open contracts, net	(1,313)
Net transfers into Level 3	-
Net transfers out of Level 3	-
Net realized losses	1,314
Net change in unrealized gain	(792)
Estimated Fair Value as of December 31, 2011	<u>\$ 162</u>

7. Derivative Financial Instruments

Credit Default Swaps

Credit default swap ("CDS") contracts are financial instruments that involve the payment of a fixed rate premium for protection against the loss in value of an underlying debt instrument, referenced entity or index, or the occurrence of a defined credit event. Under the terms of the swap, one party acts as a "guarantor" (the Seller), receiving the periodic stream of payments (from the Buyer) over the term of the contract and agreeing to the remedies that are specified within the credit default agreement. A credit event for corporate reference obligations includes bankruptcy, failure to pay, obligation acceleration, repudiation/moratorium or restructuring. If a credit event occurs, the seller must pay the contingent payment to the buyer, which is typically the par value (full notional amount) of the reference obligation, though the actual payment may be mitigated by terms of the International Swaps and Derivative Agreement ("ISDA"), allowing for netting arrangements and collateral. In addition, the payment may be reduced by anticipated recovery rates, segregated collateral and netting arrangements that may incorporate multiple transactions with a given counterparty.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

The following table summarizes the CDS contracts the Consolidated Investment Funds held as of December 31, 2011:

(in thousands)

Industry	Purchased / Sold	Maturity Date	Fixed Rate of Payment	Notional Amount / Exposure Purchased	Upfront Payment	Market Value
Beverage, Food and Tobacco	Sold	9/20/2012	4.65%	\$ 7,500	\$ -	\$ 143
Electronics	Sold	9/20/2012	2.65%	7,500	-	51
Diversified/Conglomerate Service	Sold	9/20/2012	3.55%	3,750	-	(66)
Broadcasting and Entertainment	Sold	9/20/2012	3.00%	6,000	-	48
Buildings and Real Estate	Sold	9/20/2012	4.05%	3,750	-	(37)
Electronics	Sold	9/20/2012	3.20%	7,500	-	(1)
Media/Telecom	Sold	9/20/2012	3.00%	3,000	-	24
Total				\$ 39,000	\$ -	\$ 162

The following table provides a summary of the Consolidated Investment Fund's maximum exposure by maturity credit rating under the swaps for which it sold protection. All of the contracts mature within the next five years.

(in thousands)

Current issuer credit rating*

B+	\$ 7,500
B	24,000
B-	3,750
CCC	3,750
	<u>\$ 39,000</u>

* The credit rating on the underlying bond provides an indicator of the risk that the Consolidated Investment Funds will have to perform under the swap arrangement. Lower credit ratings with a shorter contract term indicate a higher likelihood of performance by the Consolidated Investment Funds.

Total Return Swaps

A total return swap is a two-party contract under which the parties agree to exchange returns from a predetermined portfolio of investments. The gross returns to be exchanged or swapped between the parties are calculated based on a notional amount, which is valued monthly to determine each party's obligation under the contract.

During the year ended December 31, 2011, the Consolidated Investment Funds' were invested in a total return swap program with a major international financial institution, consisting primarily of corporate bank debt. The Consolidated Investment Funds realized approximately \$0.1 million of net gains, which are included as a component of net realized loss from investments and derivative contracts in the Consolidated Statement of Income, and were netted against collateral previously posted with the counterparty upon termination of the program.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

8. Debt and Notes Payable

Consolidated debt and notes payable as of December 31, 2011 consists of:

(in thousands)

	December 31, 2011
Partnership revolving credit facility	\$ 58,210
Credit Opportunities Master note payable	56,603
	\$ 114,813

Revolving Credit Facility

On July 21, 2009, the Partnership amended and restated the Credit Agreement with Bank of America as syndication agent and The Bank of Nova Scotia as administrative agent in the amount of \$147.3 million. The Credit Agreement provides for loans, which were scheduled to mature on July 21, 2011.

Interest is payable on the last day of each month. The applicable spread for LIBOR loans under the Credit Agreement is LIBOR plus 5% per annum. For base rate loans, the spread is 4% per annum over the prevailing prime rate.

Under the terms of the Credit Agreement, the availability of credit was subject to financial covenants requiring the Partnership to maintain a minimum amount of fee earning assets under management, a minimum amount of management fees earned, a minimum collateral ratio and a maximum on compensation paid.

On September 15, 2009 and February 22, 2010, the Credit Agreement was amended and restated to clarify some documentation items and reporting requirements.

On December 28, 2010, a waiver to the Credit Agreement was executed which allowed the Partnership to reduce its debt from \$141.3 million to \$86.3 million as of December 31, 2010. In addition to debt retired on December 30, 2010, the waiver also called for a cash payment of \$12.8 million on or before March 31, 2011 which would result in the retirement of an additional \$15.6 million in face value of debt.

On March 31, 2011, the Partnership amended the Revolving Credit Agreement to extend a number of provisions from the December 28, 2010 waiver, including forbearance from the exercising of remedies for events of default from July 21, 2011 to November 17, 2011. As referred to above, cash of \$12.8 million was paid, retiring \$15.6 million in face value.

On November 17, 2011, the Partnership amended the Revolving Credit Agreement to extend a number of provisions from the March 31, 2011 amendment, including forbearance from the exercising of remedies for events of default from November 17, 2011 to April 30, 2012. The amendment also called for two separate principal payments of \$7.5 million on November 17, 2011 and on or before March 1, 2012.

On December 9, 2011, the Partnership amended the Revolving Credit Agreement for the resignation, consent and appointment of a new administrative agent. As amended, Bank of America, N.A. replaced The Bank of Nova Scotia as administrative agent.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

On March 14, 2012, the Partnership amended the Revolving Credit Agreement to extend a number of provisions from the November 17, 2011 amendment, including forbearance from the exercising of remedies for events of default from April 30, 2012 to May 2, 2013. The amendment also called for five quarterly principal payments, commencing May 2, 2012. The first four such payments are for \$6.0 million each and the final payment is for the remaining balance outstanding. The first payment for \$6.0 million has been made as of the date of this report. Any mandatory prepayments made reduce future scheduled payments pro rata. Financial covenants were also modified during the forbearance period.

The balance as of the date of this report is \$24.0 million.

The fair value of the facility as of December 31, 2011 was approximately \$58.2 million.

Credit Opportunities Master Note Payable

On December 19, 2008, Highland Credit Opportunities CDO Financing, LLC ("CDO Financing"), a wholly-owned subsidiary of Credit Opportunities Master, executed a Note Purchase Agreement (the "Purchase Agreement") with certain investors that provided for the issuance of up to \$218 million of senior secured convertible notes guaranteed by Credit Opportunities Master. Pursuant to the terms of the Purchase Agreement and concurrent with the execution of the Purchase Agreement, CDO Financing issued \$116.6 million of senior secured convertible notes for \$115.6 million of cash and securities with a fair value of \$0.9 million. The proceeds from the notes were used primarily to fund an additional equity investment in Highland Credit Opportunities, Ltd. (the "CDO"). This investment was required under the terms of a forbearance agreement that the Credit Opportunities Master executed with the majority controlling class of the CDO's note holders.

The notes have a stated maturity date of December 31, 2012 and accrue interest on a quarterly basis at a rate of 25% per year. The terms of the Purchase Agreement allow for up to 75% of the accrued interest due at any payment date to be capitalized as additional principal owed to the holders of the notes. For the year ended December 31, 2011, no interest payable was capitalized and \$27.0 million of senior secured convertible notes were repaid. As of December 31, 2011, there are \$56.6 million of senior secured convertible notes outstanding.

Subject to certain conditions, the Purchase Agreement allows for CDO Financing to issue up to \$101.4 million of additional notes to the existing note holders. The Purchase Agreement requires payment of a fee of 2.5% per annum on the unfunded portion of the note commitment. For the year ended December 31, 2011, approximately \$2.5 million of unfunded commitment fees is recorded in interest expense in the Consolidated Statement of Income. As of December 31, 2011, a liability of approximately \$7.9 million is included in interest payable in the Consolidated Balance Sheet. The fees will be paid on the stated maturity date, or on the full repayment of the notes.

Under the terms of the Purchase Agreement, the Credit Opportunities Master was not able to make any prepayments until July 1, 2010. From July 1, 2010 through December 31, 2010, the Credit Opportunities Master could elect to prepay 50% of the outstanding principal balance. After that period, Credit Opportunities Master may prepay all or a portion of the outstanding principal, provided that each partial payment made to the note holders is in an aggregate principal amount of at least \$0.5 million.

The Purchase Agreement stipulates a premium due to the note holders upon full or partial payment of the outstanding principal of the notes. The premium due is determined by the date the principal is repaid and is calculated as a percentage of that principal balance, with a minimum of

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

5% due on the stated maturity date of the notes. The following table presents the premium rates by payment period:

<u>Prepayment Period</u>	<u>Fees</u>
July 1, 2011 - Dec. 31, 2011	10.0%
July 1, 2012 - Dec. 31, 2012	6.0%
Dec. 31 2012	5.0%

Credit Opportunities Master is accruing the minimum premium due, 5% of the outstanding balance, over the contractual life of the notes using the effective-yield method. For the year ended December 31, 2011, approximately \$0.3 million of this premium due is recorded as a component of interest expense in Credit Opportunities Master's consolidated statement of operations. As of December 31, 2011 a liability of approximately \$2.0 million for the total premium recognized over the life of the notes is included in interest payable in the Consolidated Balance Sheet. Premium of \$2.7 million was paid upon the prepayment during the year and is recorded in interest expenses in the Consolidated Statement of Income.

At the note holders' option, up to 50% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master between January 1, 2010 and June 30, 2010. From July 1, 2010 through December 31, 2012, up to 100% of the unpaid principal and accrued interest on the notes may be converted, in whole or in part, to limited partnership interests in the Feeder Fund or Credit Opportunities Master. As of December 31, 2011, no unpaid principal or accrued interest on the notes was converted into limited partnership interests in the Feeder Fund or Credit Opportunities Master.

The Purchase Agreement grants the note holders a lien on certain assets held by Credit Opportunities Master. In addition, it requires Credit Opportunities Master and the CDO to comply with various financial covenants. Failure to meet these covenants may result in an event of default and give the note holders the right to accelerate repayment of the debt or initiate a liquidation of certain assets. Credit Opportunities Master was in compliance with the covenants as of December 31, 2011 and for the year then ended.

As of December 31, 2011, the estimated fair value of the notes was approximately \$74.5 million, which is based on value of the risk-adjusted yield from the expected future cash flows of the notes relative to comparable investments. Actual values may vary significantly from the estimates, particularly since the terms of the Company's debt are complex, and the market for the instruments is illiquid.

9. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its Consolidated Investment Funds' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The consolidated entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the consolidated entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Investment Funds due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Investment Fund's exposure to market risk is affected by a number of macroeconomic factors, such as interest rates, availability of credit, inflation rates, economic uncertainty and changes in laws and regulations. These factors may affect the level and volatility of securities prices and the liquidity of the Partnership and its Consolidated Investment Funds investments. Volatility or illiquidity could impair the Partnership and its Consolidated Investment Funds performance or result in losses. The Partnership and its Consolidated Investment Funds may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets. The performance of life settlement contracts may be adversely impacted by the under estimation of mortality and other rates.

Credit Risk

Credit risk is the potential loss the Partnership and its consolidated entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the consolidated entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the consolidated entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Liquidity Risk

The Consolidated Investment Fund's limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Investment Funds nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the consolidated investment funds. The Consolidated Investment Funds could be materially affected by the liquidity, credit and other events of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Investment Funds' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Investment Funds' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

When the Partnership and its Consolidated Investment Funds' purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Investment Funds have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Investment Funds may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

CLO Equity Investments

The Partnership and its Consolidated Investment Funds may invest in CLO equity that are not rated by various credit rating agencies and are generally considered to be speculative with respect to the issuer's ability to repay principal and interest. The yields and prices of these non-rated CLO equity tranches are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed. In addition, certain of the Consolidated Investment Funds' investments have resale or transfer restrictions that further limit their liquidity. The Partnership and its consolidated investment funds are exposed to the potential non-payment of principal and interest from their CLO equity investments. As of December 31, 2011, 1 of the 29 CLO's managed by the Partnership paid interest to the equity holders on their last payment date.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Investment Funds invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Credit Default Swaps

Credit default swaps involve greater risks than if the Partnership or its Consolidated Investment Funds had written the reference obligations directly. In addition to the market risk discussed above, credit default swaps are subject to liquidity risk and credit risk. If a credit event occurs, the value of the reference obligation received by the Partnership or its Consolidated Investment Funds, coupled with the periodic payments previously received, may be less than the full notional amount it pays to the buyer, resulting in loss of value.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Investment Funds' investments. However, the Consolidated Investment Funds' portfolios could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

credit risk may increase the losses suffered by the Consolidated Investment Funds. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Investment Funds to losses that are disproportionate to market movements as a whole.

Custody Risk

The clearing operations for the Partnership and its Consolidated Investment Funds are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Investment Funds' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Investment Funds may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Investment Funds' might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Investment Funds may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Investment Funds' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Investment Funds. If the value of the Consolidated Investment Funds' securities fall below the margin level required by a counterparty, additional margin deposits would be required. If the Consolidated Investment Funds are unable to satisfy a margin call, the counterparty could liquidate the Consolidated Investment Funds' positions in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Investment Funds to incur significant losses. In addition, to the extent the Consolidated Investment Funds have posted excess collateral for margin transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Investment Funds' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Investment Funds. In addition, because the use of leverage allows the Consolidated Investment Funds to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Investment Funds may lose in the event of adverse price movements is high in relation to the amount of their investment.

In the event of a sudden drop in the value of the Consolidated Investment Funds' assets, the Consolidated Investment Funds may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Investment Funds may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Investment Funds have the ability to apply discretionary margin, haircut, and financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2011, the Consolidated Investment Funds' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that the Consolidated Investment Funds' are able to realize on the sale of its investments will directly affect the amounts that the investors in the feeder funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2011.

Litigation Risk

The Partnership and its Consolidated Investment Funds are periodically subject to legal actions arising from the ordinary course of business. The ultimate outcome of these cases is inherently uncertain and could result in additional losses to the Partnership and/or its Consolidated Investment Funds. Refer to Note 16 for a discussion of open litigation.

10. Related Party Transactions

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2011, approximately \$7.2 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in Other Assets in the accompanying Consolidated Balance Sheet.

Long Term Incentive Plan and Intercompany Loan Payable to Highland Capital Management Services, Inc. ("HCMSI")

Effective January 1, 2001, all of the Partnership's employees were transferred to HCMSI, which provides personnel management and consulting services to the Partnership. The Partnership and HCMSI entered into a management agreement whereby the Partnership compensated HCMSI for its employee expenses plus a consulting services fee. As of January 1, 2005, there were no further transactions with HCMSI as all employees were transferred to the Partnership.

Effective January 1, 2001, HCMSI approved a long-term incentive plan ("the LTIP") for select employees who are eligible to receive Long-Term Incentive Units ("the Units") under the LTIP. The number of Units authorized under the LTIP is 30,000,000 and a majority of the Units granted vest 40% during the grant year and 30% for each of the two years thereafter, expiring 10 years after such grant date, unless different terms are agreed upon between the Plan Administrator and the employee. The fair value of the Units are based upon the fair value of the Partnership, as determined in good faith, by James Dondero, the Plan Administrator and the sole shareholder of the general partner and a limited partner of the Partnership. The LTIP was transferred to the Partnership from HCMSI on January 1, 2005.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

The Units are exercisable at the discretion of the Plan Administrator, or upon a triggering event defined as the earlier of the following events:

- Change in control
- Initial public offering
- Participant's voluntary or involuntary termination due to death, disability, retirement, or hardship
- Participant's voluntary or involuntary termination other than due to death, disability, retirement, hardship, or cause is exercisable to the extent the Participant is entitled to only 80% of the vested shares.

A total of 562,299 Units are outstanding as of December 31, 2011 under the LTIP. During the year ended December 31, 2011, the liability under the LTIP decreased by approximately \$0.4 million, which is included in *Compensation and benefits* in the Consolidated Statement of Income.

The total balance payable to HCMSI was approximately \$0.5 million as of December 31, 2011, which is related to the LTIP accrual.

Effective December 31, 2004, all of the employees at HCMSI were transferred to the Partnership, and the management agreement between the Partnership and HCMSI was terminated as to the provision of future services. However, all of the outstanding and unfunded obligations of the Partnership to HCMSI as of December 31, 2004, as well as any additional obligations that may arise in relation to these amounts, will continue to be due and payable to HCMSI until satisfied in accordance with the provisions of the agreements in place.

Accounts Held with Related Party

During the year the Partnership and its subsidiaries maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2011, balances in the accounts were approximately \$1.4 million, a portion of which exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Controlling Positions

Various members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. Any director's fees received by the Partnership for these services as directors are paid to and retained by the Partnership. During the year ended December 31, 2011, the Partnership did not earn material income from those entities where members of management serve as members of the Board of Directors. As of December 31, 2011, the Partnership and its subsidiaries held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 10,587
American Home Patient	Common Equity	7,340
American Home Patient	Term Loan	7,998
American Home Patient	Term Loan - Second Lien	3,376
Blackwell BMC, LLC	Common Equity	34,828
Broadstripe Holdings, LLC	Revolver	1,065
Broadstripe Holdings, LLC	Term Loan	4,467
Carey International, Inc	Term Loan	15,987
Carey Holdings, Inc.	Class A Common Stock	99
CCS Medical, Inc.	Term Loan	5,853
CCS Medical, Inc.	Term Loan - Second Lien	4,813
Consolidated Restaurant Companies, Inc.	Common Equity	6,364
Consolidated Restaurant Companies, Inc.	Term Loan	7,398
Cornerstone Healthcare Group Holding, Inc.	Common Equity	81,490
Cornerstone Healthcare Group Holding, Inc.	Term Loan	18,345
Cornerstone Healthcare Group Holding, Inc.	Loan - Second Lien	4,298
Epocal, Inc.	Preferred Equity	60,944
Euramax International Holdings B.V.	Common	1,684
Ginn LA Resorts Holdings, LLC	Term Loan	1,506
Highland Long/Short Equity Fund	Mutual Fund	222
Highland Long/Short Healthcare Fund	Mutual Fund	7,050
Highland Credit Strategies Fund	Closed-End Mutual Fund	3,929
Home Interiors & Gifts, Inc.	Proof of Claims	2
Marcal Paper Mills, LLC	Common Equity	-
Metro-Goldwyn-Mayer, Inc.	Common Stock	56,833
Molecular Insight Pharmaceuticals, Inc.	Preferred Stock	17,257
Molecular Insight Pharmaceuticals, Inc.	Warrants	9,742
Molecular Insight Pharmaceuticals, Inc.	Term Loan	19,198
Nex-Tech Aerospace Holdings, Inc.	Common Equity	141
Romacorp Restaurant Holdings, Inc.	Common Equity	774
Safety-Kleen Inc.	Common Equity	226,920
Solstice Neurosciences, Inc.	Preferred Equity	246
Terrestar	Preferred Equity	1,006
Trussway Industries, Inc.	Common Equity	3,256

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$7.1 million. At December 31, 2011, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$300.4 million and \$77.0 million, respectively.

Affiliated Transactions

In accordance with the terms of a Master Indenture Agreement (the "Indenture") dated November 2, 2006, the Credit Opportunities Master acquired 250,000 Preferred Shares of Highland Credit Opportunities CDO, Ltd (the "CDO"). The Indenture requires Credit Opportunities Master to hold, directly or indirectly, more than 99% of the CDO's outstanding Preferred Shares at all times. As of December 31, 2011, the Credit Opportunities Master held 350,000 Preferred Shares and was the sole beneficial preferred shareholder.

The CDO invests primarily in floating rate syndicated bank loans, fixed income securities, and equity investments. These investments were purchased with funds the CDO received from the issuance of rated floating rate notes and Credit Opportunities Master's purchase of the Preferred Shares. Credit Opportunities Master is the sole beneficiary of all residual income from the CDO's portfolio. Although the Preferred Shares do not have a voting interest in the CDO, they carry certain rights. Specifically, they are entitled to receive quarterly preferential dividends, without requiring any declaration by the Directors, from the date they were issued until they are redeemed. The Investment Manager serves as the Collateral Manager for the CDO but does not receive any fees for its services to the CDO.

During the fourth quarter of 2008, the CDO failed to meet certain over-collateralization tests set forth in the First Supplement to the Indenture dated November 2, 2006. This breach would have given the CDO's Majority of Controlling Debt Class the option to accelerate repayment of the CDO's outstanding debt or initiate a liquidation of its assets. To protect the value of its investment in the CDO, Credit Opportunities Master entered into a forbearance agreement whereby the Majority Controlling Class of the CDO's note holders waived the breach and agreed not to exercise the rights discussed above. The Majority Controlling Class also agreed to waive any future events of default resulting from the CDO's failure to meet the overcollateralization tests through December 31, 2011. In return, the CDO agreed not make any preferred dividend payments to Credit Opportunities Master until the over-collateralization tests exceed certain thresholds.

Credit Opportunities Master paid certain expenses related to the forbearance agreement, which have been recorded as an increase to the cost basis of its investment in the CDO's preferred shares. The CDO was in compliance with all over-collateralization tests at expiration of the forbearance agreement on December 31, 2011.

Services Performed by an Affiliate

In March 2007, Highland Capital of New York, L.P., a New York limited partnership ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2011, total marketing fee expense charged to the Partnership by Highland New York was approximately \$3.7 million and as of December 31, 2011, amounts owed to Highland New York for services rendered was approximately \$0.9 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

11. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, consolidated statement of income, or its liquidity. See Note 16.

Operating Leases

Future minimum lease payments under operating lease commitments of the Partnership and its consolidated entities with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31,

2012	\$	-
2013		290
2014		1,377
2015		1,343
2016		1,333
Thereafter		6,639
Total	\$	<u>10,982</u>

Total rental expense of the Partnership and its consolidated entities for operating leases was approximately \$2.2 million for the year ended December 31, 2011.

Unfunded Loan Commitments

At December 31, 2011, the Consolidated Investment Funds had unfunded loan commitments of approximately \$2.1 million. Unfunded loan commitments are marked to market on the relevant day of valuation in accordance with the Partnership's valuation policies. Any applicable unrealized gain/(loss) and unrealized appreciation/(depreciation) on unfunded loan commitments are recorded on the Consolidated Balance Sheet and Consolidated Income Statement, respectively. The net change in unrealized appreciation on unfunded transactions of approximately \$0.2 million is recorded in the Consolidated Income Statement.

12. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. A new amendment became effective on January 1, 2011 in which a named participant was admitted to the plan and is eligible to earn benefit accrual. 2011 expense reflects a service cost charge for the value of the new participant's benefit earned during 2011. The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2011 are reconciled in the tables below

(in thousands)

Change in projected benefit obligation	2011
Benefit obligation at beginning of year	\$ 3,358
Service cost	4
Interest cost	174
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	(101)
Acquisition/(divestiture)	-
Benefits paid	(597)
Benefit obligation at end of year	<u>\$ 2,838</u>
Change in plan assets	2011
Fair value of plan assets at beginning of year	\$ 3,568
Actual return on plan assets	161
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(597)
Other increase/(decrease)	-
Fair value of plan assets at year end	<u>\$ 3,132</u>
Reconciliation of Funded Status	2011
Accumulated benefit obligation at end of year	\$ 2,838
Projected benefit obligation at end of year	2,838
Fair value of assets at end of year	<u>3,132</u>
Funded status at end of year	<u>\$ 294</u>

The Partnership does not expect to contribute to the plan during 2012.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2011:

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Discount rate	4.40%
Rate of compensation increase	N/A

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2011:

Discount rate	5.70%
Expected long-term return on plan assets	5.70%
Rate of compensation increase	N/A

As of December 31, 2011, approximately \$0.5 million of the plan assets were categorized as Level 3.

13. Goodwill and Other Intangible Assets

Below is a summary of the Partnership's goodwill and other intangible assets as of December 31, 2011:

(in thousands)

	Carrying Value
Goodwill for Highland Europe	\$ 8,020
	<u>\$ 8,020</u>

On April 9, 2004, the Partnership purchased the management agreements of Highland Floating Rate Fund (the "Floating Rate Fund") and Highland Floating Rate Advantage Fund (the "Advantage Fund"), collectively the "Purchased Funds." The combined purchase price for the above agreements was \$24.0 million, which was included on the Partnership's Consolidated Balance Sheet. The Partnership performed yearly impairment tests subsequent to the purchase and recorded no impairments through the year ended December 31, 2010.

On December 15, 2011, the management agreements of the Floating Rate Fund, the Advantage Fund and three other registered investment companies were novated so that a replacement investment advisor would be substituted for the Partnership. Because the Partnership released its rights and obligations under the agreements, the Partnership fully amortized any intangible value related to these agreements. An expense of \$24.0 million is recorded in the Partnership's Consolidated Income Statement.

The Partnership performs an impairment test on the Goodwill of Highland Europe as required by U.S. GAAP on a yearly basis. Due to the pending sale of the management agreements of the entity, goodwill was assessed for impairment based on the sale price. The Partnership has determined that no impairment charge is necessary for the current year. Please refer to Note 18 for further discussion of the sale of the Highland Europe management agreements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

14. Reverse Repurchase Agreements

Credit Strategies Master is party to collateralized financing transactions consisting of securities sold under agreements to repurchase. For the year ended December 31, 2011, approximately \$22.7 million was paid to the counterparty to repurchase the securities sold under the repurchase agreements. Additionally \$0.5 million of financing interest was paid to the counterparty. As of December 31, 2011, Credit Strategies Master was not a party to any reverse repurchase agreements.

15. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2011, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2011.

Crusader Master

Crusader Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Crusader Master. Crusader Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Crusader Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Crusader Master's net taxable income.

Since Crusader Master trades investments for its own account, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The General Partner intends to conduct Crusader Master's business in such a way that it does not constitute a U.S. trade or business or create a taxable presence in any of the jurisdictions in which the Investment Manager has offices, including the United Kingdom.

Dividends as well as certain interest and other income received by Crusader Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Crusader Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2011, a withholding tax liability of \$0.9 million is included in the accrued expenses in the Consolidated Balance Sheet.

It is management's responsibility to determine whether a tax position of Crusader Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As a result of adopting this guidance, management has established an immaterial reserve for uncertain tax positions. The full amount relates to the current year and was recorded with net realized loss from investments and derivative contracts in the Consolidated Income Statement. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2011.

Crusader Master files tax returns as prescribed the tax laws of the jurisdictions in which it operates. In the normal course of business, Crusader Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2011, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

Credit Opportunities Master

For U.S. income tax purposes, Credit Opportunities Master is treated as a pass-through entity, which means it is not subject to federal income taxes under current Internal Revenue Service guidelines. However, each investor may be individually liable for income taxes, if any, on its share of the partnership's net taxable income.

Credit Opportunities Master trades in senior secured syndicated bank loans for its own account and, as such, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The Partnership intends to conduct Credit Opportunities Master's business in such a manner that it does not constitute a U.S. trade or business, nor does it create a taxable presence in any of the jurisdictions in which the Partnership has offices, including the United Kingdom.

Dividends as well as certain interest and other income received by Credit Opportunities Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Opportunities Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. Deferred tax liability is a result of a temporary difference related to the unrealized appreciation on Credit Opportunities Master's investments that will become taxable income in future years. The deferred tax liability will become payable upon realization of the gain when the investment is sold and it is measured using the applicable enacted tax rate and the provisions of the enacted tax law. As of December 31, 2011, a liability to account for such withholdings and other taxes of approximately \$2.1 million is classified within accrued expenses and withholding tax payable on the Consolidated Balance Sheet.

The Credit Opportunities Master applies authoritative guidance which requires management to determine whether a tax position of Credit Opportunities Master is more likely than not to be

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As of December 31, 2011, a liability to account for uncertain tax positions of \$0.1 million is classified within accrued expenses within the Consolidated Balance Sheet. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2011.

Credit Opportunities Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Opportunities Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2011, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

Credit Strategies Master

Credit Strategies Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Credit Strategies Master. Credit Strategies Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Credit Strategies Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Credit Strategies Master's net taxable income.

The Credit Strategies Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Strategies Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2011, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

It is management's responsibility to determine whether a tax position of Credit Strategies Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner has determined that there was no effect on the financial statements from the application of this guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2011.

Dividends as well as certain interest and other income received by Credit Strategies Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Strategies Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. Deferred tax liabilities may result from temporary differences related to the unrealized appreciation on Credit Strategies Master's investments that will become taxable income in future years. Deferred tax liabilities will become payable upon

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

realization of the gains when the investments are sold, and are measured using the applicable enacted tax rate and provisions of the enacted tax law.

Restoration Onshore

Restoration Onshore is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of the Restoration Onshore's net taxable income. Interest, dividends and other income realized by the Restoration Onshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Onshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Onshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority.

The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2011. Restoration Onshore files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2011, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

Restoration Offshore

Restoration Offshore is a Cayman Islands exempted company. Under the current laws of the Cayman Islands, there is no income, estate, transfer, sales or other tax payable by Restoration Offshore. Restoration Offshore has elected to be treated as a corporation for U.S. tax purposes and files a protective 1120-F.

The General Partner intends to conduct the business of Restoration Offshore in such a way that Restoration Offshore's activities do not constitute a U.S. trade or business and any income or realized gains earned by Restoration Offshore do not become "effectively connected" with a trade or business carried on in the United States for U.S. federal income tax purposes.

Restoration Offshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Offshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. In accordance with this authoritative guidance, the General Partner has established a reserve of approximately \$0.1 million for uncertain tax positions. The full amount relates to the current year and was recorded as a tax expense in the Consolidated Statement of Operations. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31,

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

2011. As of December 31, 2011, the tax years that remain subject to examination by major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

16. Legal Proceedings

In April 2007, CDO Master Fund entered into a risk sharing agreement structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Special Opportunities Holding Company ("SOHC"). The warehouse was financed by a recognized financial institution and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, the counterparty agreed to extend it for one year on March 15, 2008. Due to liquidity constraints, CDO Master Fund was unable to meet a November call, and the counterparty elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by the counterparty and sold on the open market through bids-wanted-in competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, the counterparty notified CDO Master Fund that its pro-rata share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount. On February 24, 2009, the counterparty (the "Plaintiffs") filed a lawsuit against CDO Master Fund, SOHC and the Partnership in the New York State Supreme Court of Manhattan alleging that they suffered losses in excess of \$745 million due to the depreciation in value of the warehouse collateral. On February 19, 2010 a New York Appeals Court sided with the Partnership and dismissed UBS' claims against the Partnership. Thereafter on June 22, 2010, Plaintiffs filed an amended complaint with the Court against the Partnership and certain affiliated registered and unregistered investment vehicles alleging \$687 million in damages. On March 13, 2012, the First Appellate Division dismissed two of the four claims against the Partnership, and severely limited the scope of the two remaining claims.

In April 2009, HYMF, Inc. filed a lawsuit in the New York State Court against the Partnership and certain consolidated investment funds (collectively "the Defendants"). The lawsuit alleges that the Defendants breached their contractual and fiduciary duties by failing to return HYMF's original investment in the consolidated investment funds. The Defendants believe they acted in accordance with the provisions of the partnership agreements and intend to vigorously defend against the lawsuit. Management believes it is currently not possible to evaluate the likelihood of any particular outcome or estimate the amount or range of potential loss with any reasonable degree of certainty.

On July 15, 2008, Crusader Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida. The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

Based on the ruling, Crusader Master recorded a reserve of approximately \$5.3 million as of December 31, 2009, which represented its ratable share of the judgment. The reserve was included as a component of accrued expenses on the Consolidated Balance Sheet.

The Defendants believe they acted in good faith pursuant to the terms of the relevant agreements and appealed the decision. In February 2011, the District Court of Florida reversed the judgment against the Defendants and overturned the ruling that resulted in Crusader Master recording the reserve. Crusader Master does not believe an appeal of this decision will be successful and relieved the reserve. This was included as a component of the net realized loss from investments and derivative contracts on the Consolidated Income Statement.

17. Fund Wind Down

On February 4, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent and that it was in the best interest of the fund to liquidate the fund's remaining assets. The proceeds from the asset liquidations will be distributed to the remaining financing counterparties and other senior and trade creditors as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

During 2008, Crusader Master and Credit Strategies Master were negatively affected by deteriorating conditions in the overall economy and credit markets. These conditions became more severe during the third and fourth quarters of 2008 and generated significant losses on various derivative transactions and repurchase agreements to which Crusader Master and Credit Strategies Master were parties. In addition, certain assets that Crusader Master and Credit Strategies Master purchased on margin through prime brokerage agreements experienced a significant decline in value. In certain cases, Crusader Master and Credit Strategies Master were unable to post the collateral required to secure these losses, and the counterparties provided notice of their intent to terminate the agreements. As a result, access to the credit that Crusader Master and Credit Strategies Master used to manage its investing and financing activities became highly constrained, and in some cases unavailable. In light of these circumstances, the General Partners (the general partner of Highland Crusader Fund, L.P. and the general partner of Highland Credit Strategies Fund, L.P.) and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. concluded, in consultation with the Investment Manager, that it would be in the best interests of their investors to wind down the investment portfolios of Credit Strategies Master and Crusader Master. On October 15, 2008, the Investment Manager notified investors that it would begin the wind-down process. The Investment Manager also restricted subscriptions and the payment of withdrawals to its feeder funds effective the same date.

In connection with the wind down, the limited partner interests of the Feeder Funds were compulsorily withdrawn/redeemed on November 15, 2008 in accordance with the terms of the governing documents.

Crusader Master

On July 15, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement (the "Scheme") that facilitates the winding-down of the investments of Crusader Master and the distribution of its assets. A substantial majority of the investors in its feeder funds consented to the plan of distribution as outlined in the Scheme. The Scheme became effective as of August 1, 2011.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

The Scheme establishes two classes of claims; those feeder fund investors who had timely submitted withdrawal/redemption requests for withdrawal/redemption dates that fell on or before June 30, 2008 and who had not received full payment ("Prior Redeemers"), and those feeder fund investors that had not timely submitted such withdrawal/redemption requests for redemption/withdrawal dates that fell on or before June 30, 2008 ("Compulsory Redeemers") (together "Redeemers"). The basis for ratable distribution amongst both classes of Redeemers was the November 15, 2008 balances of said Redeemers ("Redemption Amount"), adjusted to add back any redemption penalties assessed against Prior Redeemers during 2008. A realization schedule for distributions is set forth in Appendix A of the Scheme (the "Realization Schedule"). The terms of the Scheme are outlined as follows:

1. Prior Redeemers shall be entitled to 60% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Prior Redeemers' Distribution"). Each Prior Redeemer shall be entitled to their pro rata share of the Crusader Fund Prior Redeemers' Distribution based on the Prior Redeemer's Redemption Amount relative to the total of all Prior Redeemers' Redemption Amounts (inclusive of all feeders).
2. Compulsory Redeemers shall be entitled to 40% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Compulsory Redeemers' Distribution"). With the exception of the non-consenting Compulsory Redeemers discussed below, each Compulsory Redeemer shall be entitled to their pro rata share of the Crusader Fund Compulsory Redeemers' Distribution based on the Compulsory Redeemer's Redemption Amount relative to the total of all Compulsory Redeemers' Redemption Amounts (inclusive of all feeders). This method of distribution resulted in a shift of capital from the Prior Redeemers to the Compulsory Redeemers. Since the redistribution is indifferent with respect to the Feeder Funds, total capital within each of the Feeder Funds changed as a result. This capital transfer is reflected in the Consolidated Statement of Changes in Partners' Capital as a restructure. In the event the Investment Manager fails to make distributions in accordance with the Realization Schedule for two consecutive quarters without receiving a waiver from the committee of Redeemers appointed to help oversee the Scheme (the "Redeemer Committee"), the Investment Manager can be removed for cause as the Investment Manager of the Master Partnership by the Redeemer Committee.

In connection with the implementation of the Scheme, the Partnership made a settlement payment to be allocated to Crusader investors in the amount of \$6.0 million. Additionally, the Partnership reserved \$8.2 million of its interest in deferred incentive fees. Both of these amounts can be found within the *Fund wind down costs* line of the Consolidated Income Statement.

Credit Strategies Master

A Plan of Distribution (the "Plan") was also adopted by Credit Strategies Master and its feeder funds and was consented to by a substantial majority of the investors in its feeder funds. On April 14, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement (the "Scheme") that incorporates the terms of the Plan so as to be binding upon Highland Credit Strategies Fund, Ltd. and its investors. The Scheme became effective on May 1, 2011. The Plan established two classes of claims; those investors of the Feeder Funds whose withdrawals/redemptions became effective on or before September 30, 2008 and who have not received full payment of their redemption amount ("Prior Redeemers") and those investors of the feeder funds who were compulsorily withdrawn/redeemed on October 15, 2008 ("Compulsory Redeemers").

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

As investments in Credit Strategies Master are realized, distributions will be made in the following order, which summarizes the terms outlined in the Plan.

1. Payments for fund expenses
2. The first \$30 million available for distribution ratably to Prior Redeemers
3. The next approximately \$5.3 million available for distribution ratably to consenting Compulsory Redeemers and a trust account established for the benefit of non-consenting Compulsory Redeemers ("Redeemer Trust Account")
4. All remaining funds will be distributed as follows:
 - a. 85% ratably to Prior Redeemers
 - b. 15% to consenting Compulsory Redeemers and the Redeemer Trust Account

This method of distribution results in a shift of capital from the Prior Redeemers to the consenting Compulsory Redeemers and the Redeemer Trust Account. It also created a shift of capital from its offshore feeder to its onshore feeder, since there was a greater proportion of Compulsory Redeemers to Prior Redeemers in the onshore feeder than in the offshore feeder.

In connection with the implementation of the Scheme, the Partnership made a settlement payment to be allocated to Credit Strategies investors in the amount of \$3.0 million. Additionally, the Partnership will make a second payment of \$6.0 million on or before May 1, 2014. Both of these amounts can be found within the *Fund wind down costs* line of the Consolidated Income Statement.

18. Subsequent Events

In accordance with the Scheme of Arrangement, Crusader Master made distributions of approximately \$102.8 million and \$102.6 million effective January 31, 2012 and April 30, 2012, respectively.

In accordance with the Plan of Distribution, the \$6.8 million distribution payable was distributed to the feeder funds by Credit Strategies Master.

In accordance with the Plan of Distribution, Credit Strategies Master made a distribution of approximately \$5.0 million effective February 29, 2012.

On February 29, 2012, Credit Opportunities CDO, Ltd. paid \$16.5 million, collectively, of preferred dividends to Credit Opportunities Master, which is restricted by the Purchase Agreement to pay interest, principal and any applicable premium.

On April 3, 2012, Credit Opportunities CDO, Ltd. paid \$17.0 million, collectively, of preferred dividends to Credit Opportunities Master, which is restricted by the Purchase Agreement to pay interest, principal and any applicable premium.

On March 14, 2012, Credit Opportunities Master elected to prepay \$12.3 million of the outstanding principal balance of the notes and approximately \$1.4 million in interest and prepayment premium.

On April 2, 2012, Credit Opportunities Master elected to prepay \$14.1 million of the outstanding principal balance of the notes and approximately \$1.0 million in interest and prepayment premium.

On February 28, 2012, the Partnership completed the sale of the management contracts of four European CLOs. Gross consideration of €33.5 million was received upon completion of the sale. Beyond the closing date, the Partnership is further entitled to 65% of all future incentive fees paid

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2011

under any of the four European CLOs as well as 80% of the subordinated fees accrued and unpaid as of December 31, 2011 with respect to Highlander Euro CDO B.V. After-tax net proceeds from the sale were used to reduce the Partnership's bank debt outstanding as well as to pay accrued interest and principal on affiliated notes payable.

On March 14, 2012, the Partnership amended the Revolving Credit Agreement. Further discussion of the amendment can be found in Note 8.

The Partnership has performed an evaluation of subsequent events through May 21, 2012, which is the date the consolidated financial statements were available to be issued, and has determined that there are no other material subsequent events that would require disclosure in the Partnership's consolidated financial statements.

Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2011

(in thousands)

The above information was derived from the audited December 31, 2011 consolidated financial Statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

Assets

Current assets:

Cash and cash equivalents	\$	6,443
Restricted cash		3,508
Investments at fair value (cost \$24,599)		60,662
Equity method investees		24,118
Management and incentive fees receivable		28,962
Due from brokers		127
Other assets		12,935
Deferred incentive fees receivable		29,428
Goodwill and other intangible assets, net		388
Fixed assets and leasehold improvements, net of accumulated depreciation of \$11,053		6,869

Total Assets

\$ 173,440

Liabilities and Partners' Capital

Liabilities

Accounts payable	\$	2,061
Accrued and other liabilities		73,971
Debt and notes payable		58,210

Total liabilities 134,242

Partners' capital 39,198

Total liabilities and partners' capital

\$ 173,440

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
December 31, 2011

(in thousands)

The above information was derived from the audited December 31, 2011 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements and should not be used for tax purposes.

Revenue:

Management fees	\$ 141,146
Incentive fees/allocations	1,381
Interest and investment income	341
Other income	<u>7,286</u>
Total revenue	<u>150,154</u>

Operating expenses:

Compensation and benefits	46,815
Professional fees	12,986
Investment and research consulting	707
Amortization and depreciation	1,342
Interest expense	5,587
Other operating expenses	<u>16,999</u>
Total operating expenses	<u>84,436</u>

Income before investment activities	<u>65,718</u>
-------------------------------------	---------------

Realized and unrealized gain/(loss) from investments transactions:

Net realized loss on sale of investment transactions	(2,939)
Net change in unrealized gain on investments	<u>1,779</u>
Total realized and unrealized loss from investments transactions	(1,160)

Realized and unrealized earnings from equity method investee:

Net unrealized gains from equity method investees	<u>6,158</u>
Total realized and unrealized gains from equity method investees	6,158

Extraordinary Items

Net realized gain on extinguishment of debt	2,823
Novation of purchased investment contracts	(24,000)
Fund wind down costs (Note 17)	(23,292)

Net income	<u><u>\$ 26,247</u></u>
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EXHIBIT 67

Copy B - For Employee's Federal Income Tax Return		2019		OMB No. 1545-0008
a Employee's social security number	1 Wages, tips, other comp. 1944956.01	2 Federal income tax withheld 569633.72		
b Employer ID number 47-1881359	3 Social security wages 132900.00	4 Social security tax withheld 8239.80		
	5 Medicare wages and tips 1944956.01	6 Medicare tax withheld 43906.46		
c Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201				
d Control number 12437 11				
e Employee's name, address, and ZIP code James Dondero [REDACTED]				
7 Social security tips	8 Allocated tips	9 Advance EIC payment		
10 Dependent care benefits	11 Nonqualified plans			
12a	13 Statutory employee Retirement plan 3rd-party sick pay			
12b	14 Other			
12c				
12d				
N/A		N/A		N/A
15 State Employer's State ID#	16 State wages, tips, etc.	17 State income tax		
18 Local wages, tips, etc. N/A	19 Local income tax N/A	20 Locality name N/A		

Form W-2 Wage and Tax Statement
This information is being furnished to the Internal Revenue Service

Dept. of the Treasury - IRS

Copy 2 - For Employee's State Income Tax Return		2019		OMB No. 1545-0008
a Employee's social security number	1 Wages, tips, other comp. 1944956.01	2 Federal income tax withheld 569633.72		
b Employer ID number 47-1881359	3 Social security wages 132900.00	4 Social security tax withheld 8239.80		
	5 Medicare wages and tips 1944956.01	6 Medicare tax withheld 43906.46		
c Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201				
d Control number 12437 11				
e Employee's name, address, and ZIP code James Dondero [REDACTED]				
7 Social security tips	8 Allocated tips	9 Advance EIC payment		
10 Dependent care benefits	11 Nonqualified plans			
12a	13 Statutory employee Retirement plan 3rd-party sick pay			
12b	14 Other			
12c				
12d				
TX	NOT NEEDED	1944956.01		
15 State Employer's State ID#	16 State wages, tips, etc.	17 State income tax		
18 Local wages, tips, etc. N/A	19 Local income tax N/A	20 Locality name N/A		

Form W-2 Wage and Tax Statement

Dept. of the Treasury - IRS

This information is being furnished to the IRS. If you are required to file a tax return, a negligence penalty/other sanction may be imposed on you if this income is taxable and you fail to report it.

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Page 1 of 2

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Appx. 01102

Copy C - FOR EMPLOYEE'S RECORDS ONLY		2019	OMB No. 1545-0008
a Employee's social security number [REDACTED]	1 Wages, tips, other comp. 1944956.01	2 Federal income tax withheld 569633.72	
b Employer ID number 47-1881359	3 Social security wages 132900.00	4 Social security tax withheld 8239.80	
	5 Medicare wages and tips 1944956.01	6 Medicare tax withheld 43906.46	
c Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201			
d Control number 12437 11			
e Employee's name, address, and ZIP code James Dondero [REDACTED]			
7 Social security tips		8 Allocated tips	9 Advance EIC payment
10 Dependent care benefits		11 Nonqualified plans	
12a		13 Statutory employee Retirement plan 3rd-party sick pay	
12b		14 Other	
12c			
12d			
TX	NOT NEEDED	1944956.01	
15 State Employer's State ID#		16 State wages, tips, etc.	17 State income tax
18 Local wages, tips, etc. N/A		19 Local income tax N/A	20 Locality name N/A

Form W-2 Wage and Tax Statement

Dept. of the Treasury - IRS

This information is being furnished to the IRS. If you are required to file a tax return, a negligence penalty/other sanction may be imposed on you if this income is taxable and you fail to report it.

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Appx. 01103

EXHIBIT 67-2

44444	For Official Use Only ▶ OMB No. 1545-0008	Safe, accurate, FAST! Use		Visit the IRS website at www.irs.gov .			
a Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201		c Tax year/Form corrected 2017 / W-2		d Employee's correct SSN <div style="background-color: black; width: 100px; height: 20px;"></div>			
		e Corrected SSN and/or name (Check this box and complete boxes f and/or g if incorrect on form previously filed.) <input checked="" type="checkbox"/>					
		Complete boxes f and/or g only if incorrect on form previously filed ▶					
		f Employee's previously reported SSN <div style="background-color: black; width: 100px; height: 20px;"></div>					
b Employer's Federal EIN 47-1881359		g Employee's previously reported name <div style="background-color: black; width: 100px; height: 20px;"></div>					
Note. Only complete money fields that are being corrected (exception: for corrections involving MQGE, see the General Instructions for Forms W-2 and W-3, under Specific Instructions for Form W-2c, boxes 5 and 6).		h Employee's first name and initial James		Last name Dondero			
		Suff. <div style="background-color: black; width: 100px; height: 20px;"></div>					
i Employee's address and ZIP code <div style="background-color: black; width: 100px; height: 20px;"></div>							
Previously reported		Correct information		Previously reported		Correct information	
1 Wages, tips, other compensation <div style="text-align: right;">603,363.72</div>		1 Wages, tips, other compensation <div style="text-align: right;">625,466.64</div>		2 Federal income tax withheld <div style="text-align: right;">150,840.93</div>		2 Federal income tax withheld <div style="text-align: right;">156,366.66</div>	
3 Social security wages 		3 Social security wages 		4 Social security tax withheld 		4 Social security tax withheld 	
5 Medicare wages and tips <div style="text-align: right;">603,363.72</div>		5 Medicare wages and tips <div style="text-align: right;">625,466.64</div>		6 Medicare tax withheld <div style="text-align: right;">12,379.04</div>		6 Medicare tax withheld <div style="text-align: right;">12,898.46</div>	
7 Social security tips 		7 Social security tips 		8 Allocated tips 		8 Allocated tips 	
9 <div style="background-color: black; width: 100px; height: 20px;"></div>		9 <div style="background-color: black; width: 100px; height: 20px;"></div>		10 Dependent care benefits 		10 Dependent care benefits 	
11 Nonqualified plans 		11 Nonqualified plans 		12a See instructions for box 12 <div style="border: 1px solid black; width: 100px; height: 20px;"></div>		12a See instructions for box 12 <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/> 		13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/> 		12b <div style="border: 1px solid black; width: 100px; height: 20px;"></div>		12b <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
14 Other (see instructions) 		14 Other (see instructions) 		12c <div style="border: 1px solid black; width: 100px; height: 20px;"></div>		12c <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
				12d <div style="border: 1px solid black; width: 100px; height: 20px;"></div>		12d <div style="border: 1px solid black; width: 100px; height: 20px;"></div>	
State Correction Information							
Previously reported		Correct information		Previously reported		Correct information	
15 State TX		15 State TX		15 State 		15 State 	
Employer's state ID number NOT NEEDED		Employer's state ID number NOT NEEDED		Employer's state ID number 		Employer's state ID number 	
16 State wages, tips, etc. <div style="text-align: right;">603,363.72</div>		16 State wages, tips, etc. <div style="text-align: right;">625,466.64</div>		16 State wages, tips, etc. 		16 State wages, tips, etc. 	
17 State income tax <div style="text-align: right;">0.00</div>		17 State income tax <div style="text-align: right;">0.00</div>		17 State income tax 		17 State income tax 	
Locality Correction Information							
Previously reported		Correct information		Previously reported		Correct information	
18 Local wages, tips, etc. 		18 Local wages, tips, etc. 		18 Local wages, tips, etc. 		18 Local wages, tips, etc. 	
19 Local income tax 		19 Local income tax 		19 Local income tax 		19 Local income tax 	
20 Locality name 		20 Locality name 		20 Locality name 		20 Locality name 	

Copy B—To Be Filed with Employee's FEDERAL Tax Return

Form **W-2c** (Rev. 8-2014)**Corrected Wage and Tax Statement**Department of the Treasury
Internal Revenue Service

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EXPERT 0000937
Appx. 01105

44444	For Official Use Only ▶ OMB No. 1545-0008	Safe, accurate, FAST! Use		Visit the IRS website at www.irs.gov .			
a Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201		c Tax year/Form corrected 2017 / W-2		d Employee's correct SSN <div style="background-color: black; width: 100px; height: 20px;"></div>			
		e Corrected SSN and/or name (Check this box and complete boxes f and/or g if incorrect on form previously filed.) <input checked="" type="checkbox"/>					
		Complete boxes f and/or g only if incorrect on form previously filed ▶					
		f Employee's previously reported SSN <div style="background-color: black; width: 100px; height: 20px;"></div>					
b Employer's Federal EIN 47-1881359		g Employee's previously reported name <div style="background-color: black; width: 100px; height: 20px;"></div>					
Note. Only complete money fields that are being corrected (exception: for corrections involving MQGE, see the General Instructions for Forms W-2 and W-3, under Specific Instructions for Form W-2c, boxes 5 and 6).		h Employee's first name and initial James		Last name Dondero			
		Suff. <div style="background-color: black; width: 100px; height: 20px;"></div>					
i Employee's address and ZIP code <div style="background-color: black; width: 100px; height: 20px;"></div>							
Previously reported		Correct information		Previously reported		Correct information	
1 Wages, tips, other compensation <div style="text-align: right;">603,363.72</div>		1 Wages, tips, other compensation <div style="text-align: right;">625,466.64</div>		2 Federal income tax withheld <div style="text-align: right;">150,840.93</div>		2 Federal income tax withheld <div style="text-align: right;">156,366.66</div>	
3 Social security wages 		3 Social security wages 		4 Social security tax withheld 		4 Social security tax withheld 	
5 Medicare wages and tips <div style="text-align: right;">603,363.72</div>		5 Medicare wages and tips <div style="text-align: right;">625,466.64</div>		6 Medicare tax withheld <div style="text-align: right;">12,379.04</div>		6 Medicare tax withheld <div style="text-align: right;">12,898.46</div>	
7 Social security tips 		7 Social security tips 		8 Allocated tips 		8 Allocated tips 	
9 <div style="background-color: black; width: 100px; height: 20px;"></div>		9 <div style="background-color: black; width: 100px; height: 20px;"></div>		10 Dependent care benefits 		10 Dependent care benefits 	
11 Nonqualified plans 		11 Nonqualified plans 		12a See instructions for box 12 <div style="border: 1px solid black; height: 20px;"></div>		12a See instructions for box 12 <div style="border: 1px solid black; height: 20px;"></div>	
13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		12b <div style="border: 1px solid black; height: 20px;"></div>		12b <div style="border: 1px solid black; height: 20px;"></div>	
14 Other (see instructions) 		14 Other (see instructions) 		12c <div style="border: 1px solid black; height: 20px;"></div>		12c <div style="border: 1px solid black; height: 20px;"></div>	
				12d <div style="border: 1px solid black; height: 20px;"></div>		12d <div style="border: 1px solid black; height: 20px;"></div>	
State Correction Information							
Previously reported		Correct information		Previously reported		Correct information	
15 State TX		15 State TX		15 State 		15 State 	
Employer's state ID number NOT NEEDED		Employer's state ID number NOT NEEDED		Employer's state ID number 		Employer's state ID number 	
16 State wages, tips, etc. <div style="text-align: right;">603,363.72</div>		16 State wages, tips, etc. <div style="text-align: right;">625,466.64</div>		16 State wages, tips, etc. 		16 State wages, tips, etc. 	
17 State income tax <div style="text-align: right;">0.00</div>		17 State income tax <div style="text-align: right;">0.00</div>		17 State income tax 		17 State income tax 	
Locality Correction Information							
Previously reported		Correct information		Previously reported		Correct information	
18 Local wages, tips, etc. 		18 Local wages, tips, etc. 		18 Local wages, tips, etc. 		18 Local wages, tips, etc. 	
19 Local income tax 		19 Local income tax 		19 Local income tax 		19 Local income tax 	
20 Locality name 		20 Locality name 		20 Locality name 		20 Locality name 	

Copy C—For EMPLOYEE's RECORDS

Form **W-2c** (Rev. 8-2014)**Corrected Wage and Tax Statement**Department of the Treasury
Internal Revenue Service

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EXPERT 0000938
Appx. 01106

44444		For Official Use Only ▶ OMB No. 1545-0008	
a Employer's name, address, and ZIP code Nexpoint Residential Trust Inc 300 Crescent Ct Suite 700 Dallas, TX 75201		c Tax year/Form corrected 2017 / W-2	
		d Employee's correct SSN <div style="background-color: black; width: 100px; height: 20px;"></div>	
		e Corrected SSN and/or name (Check this box and complete boxes f and/or g if incorrect on form previously filed.) <input checked="" type="checkbox"/>	
		Complete boxes f and/or g only if incorrect on form previously filed ▶	
b Employer's Federal EIN 47-1881359		f Employee's previously reported SSN <div style="background-color: black; width: 100px; height: 20px;"></div>	
		g Employee's previously reported name 	
		h Employee's first name and initial James	
		Last name Dondero	
		Suff. 	
Note. Only complete money fields that are being corrected (exception: for corrections involving MQGE, see the General Instructions for W-2 and W-3, under Specific Instructions for Form W-2c, boxes 5 and 6).		i Employee's address and ZIP code <div style="background-color: black; width: 100px; height: 20px;"></div>	
Previously reported		Correct information	
1 Wages, tips, other compensation <div style="text-align: right;">603,363.72</div>		1 Wages, tips, other compensation <div style="text-align: right;">625,466.64</div>	
3 Social security wages 		3 Social security wages 	
5 Medicare wages and tips <div style="text-align: right;">603,363.72</div>		5 Medicare wages and tips <div style="text-align: right;">625,466.64</div>	
7 Social security tips 		7 Social security tips 	
9		9	
11 Nonqualified plans 		11 Nonqualified plans 	
13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>		13 Statutory plan <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>	
14 Other (see instructions)		14 Other (see instructions)	
		12a See instructions for box 12 <div style="text-align: center;">0000</div>	
		12b <div style="text-align: center;">0000</div>	
		12c <div style="text-align: center;">0000</div>	
		12d <div style="text-align: center;">0000</div>	
State Correction Information			
Previously reported		Correct information	
15 State TX		15 State TX	
Employer's state ID number NOT NEEDED		Employer's state ID number NOT NEEDED	
16 State wages, tips, etc. <div style="text-align: right;">603,363.72</div>		16 State wages, tips, etc. <div style="text-align: right;">625,466.64</div>	
17 State income tax <div style="text-align: right;">0.00</div>		17 State income tax <div style="text-align: right;">0.00</div>	
Locality Correction Information			
Previously reported		Correct information	
18 Local wages, tips, etc.		18 Local wages, tips, etc.	
19 Local income tax		19 Local income tax	
20 Locality name		20 Locality name	

Copy 2—To Be Filed with Employee's State, City, or Local Income Tax Return

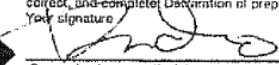
Form **W-2c** (Rev. 8-2014)**Corrected Wage and Tax Statement**Department of the Treasury
Internal Revenue Service

Confidential

EXPERT 0000939
Appx. 01107

EXHIBIT 67-3

Form 1040 (2013) **JAMES D. DONDERO** Page 2

Tax and Credits	38 Amount from line 37 (adjusted gross income) 38 48,945,921.	
Standard Deduction for - • People who check any box on line 39a or 39b OR who can be claimed as a dependent, see instructions. • All others: Single or Married filing separately, \$6,100 Married filing jointly or Qualifying widow(er), \$12,200 Head of household, \$8,950	39a Check <input type="checkbox"/> You were born before January 2, 1949, <input type="checkbox"/> Blind. Total boxes checked ... 39a If: <input type="checkbox"/> Spouse was born before January 2, 1949, <input type="checkbox"/> Blind. checked ... 39b <input checked="" type="checkbox"/>	
	b If your spouse itemizes on a separate return or you were a dual-status alien, check here 39b <input checked="" type="checkbox"/>	
	40 Itemized deductions (from Schedule A) or your standard deduction (see left margin) 40 2,342,092.	
	41 Subtract line 40 from line 38 41 46,603,829.	
	42 Exemptions. If line 38 is \$150,000 or less, multiply \$3,900 by the number on line 6d. Otherwise, see inst. 42 0.	
	43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- 43 46,603,829.	
	44 Tax. Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/> 44 13,035,847.	
	45 Alternative minimum tax. Attach Form 6251 45 0.	
	46 Add lines 44 and 45 46 13,035,847.	
	47 Foreign tax credit. Attach Form 1116 if required 47 177.	
48 Credit for child and dependent care expenses. Attach Form 2441 48		
49 Education credits from Form 8863, line 19 49		
50 Retirement savings contributions credit. Attach Form 8880 50		
51 Child tax credit. Attach Schedule 8812, if required 51		
52 Residential energy credits. Attach Form 5695 52		
53 Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/> 53		
54 Add lines 47 through 53. These are your total credits 54 177.		
55 Subtract line 54 from line 46. If line 54 is more than line 46, enter -0- 55 13,035,670.		
Other Taxes	56 Self-employment tax. Attach Schedule SE 56 5,374.	
57 Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919 57		
58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required 58		
59a Household employment taxes from Schedule H 59a		
b First-time homebuyer credit repayment. Attach Form 5405 if required 59b		
60 Taxes from: a <input checked="" type="checkbox"/> Form 8959 b <input checked="" type="checkbox"/> Form 8960 c <input checked="" type="checkbox"/> Inst.; enter code(s) STMT 15 60 2,070,082.		
61 Add lines 55 through 60. This is your total tax 61 15,111,126.		
Payments	62 Federal income tax withheld from Forms W-2 and 1099 62 393,106.	STATEMENT 14
63 2013 estimated tax payments and amount applied from 2012 return 63 41,508.		
64a Earned income credit (EIC) 64a		
b Nontaxable combat pay election 64b		
65 Additional child tax credit. Attach Schedule 8812 65		
66 American opportunity credit from Form 8863, line 8 66		
67 Reserved 67		
68 Amount paid with request for extension to file 68 16,500,000.		
69 Excess social security and tier 1 RRTA tax withheld 69		
70 Credit for federal tax on fuels. Attach Form 4136 70		
71 Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8885 d <input type="checkbox"/> 71		
72 Add lines 62, 63, 64a, and 65 through 71. These are your total payments 72 16,934,614.		
Refund	73 If line 72 is more than line 61, subtract line 61 from line 72. This is the amount you overpaid 73 1,823,488.	
74a Amount of line 73 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/> 74a 1,561,228.		
75 Amount of line 73 you want applied to your 2014 estimated tax 75		
Amount You Owe	76 Amount you owe. Subtract line 72 from line 61. For details on how to pay, see instructions 76	
77 Estimated tax penalty (see instructions) 77 262,260.		
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input checked="" type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No Designee's name TODD CRAWFORD Phone 713-982-2000 Personal identification number (PIN) 28788	
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. Your signature  Date 10/15/14 Your occupation EXECUTIVE Daytime phone number 972-440-4100 Spouse's signature, if a joint return, both must sign. Date _____ Spouse's occupation _____ If the IRS sent you an Identity Protection PIN, enter it here _____	
Preparer	Print/Type preparer's name TODD CRAWFORD Preparer's signature TODD CRAWFORD Date 10/14/14 Check <input type="checkbox"/> self-employed <input type="checkbox"/> PTIN P00848788	
Use Only	Firm's name DELOITTE TAX LLP Firm's EIN 86-1065772 1111 BAGBY STREET, SUITE 4500 Firm's address HOUSTON, TX 77002-2591 Phone no. 713-982-2000	

JAMES D. DONDERO

FORM 1040		WAGES RECEIVED AND TAXES WITHHELD				STATEMENT 12	
T S	EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T	HIGHLAND CAPITAL MANAGEMENT LP	1,911,538.	377,643.			7,049.	43,250.
T	HIGHLAND CAPITAL MGMT PTE LTD.	76,085.					
TOTALS		1,987,623.	377,643.			7,049.	43,250.

FORM 1040		QUALIFIED DIVIDENDS		STATEMENT 13	
NAME OF PAYER		ORDINARY DIVIDENDS	QUALIFIED DIVIDENDS		
NEXPOINT		1,209,750.	63,077.		
NEXPOINT - GET GOOD #2		67,084.	3,498.		
NEXPOINT ADVISORS LP		19,065.	280.		
FROM K-1 - HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.		175,652.	9,217.		
FROM K-1 - PCMG TRADING PARTNERS XXIII,		10,567.	724.		
FROM K-1 - STRAND ADVISORS III, INC.		143.	10.		
FROM K-1 - STRAND ADVISORS, INC.		11,447.	1,240.		
FROM K-1 - SERENGETI PARTNERS, LP - GET GOOD #2		57,678.	30,335.		
FROM K-1 - HAYMAN CAPITAL PARTNERS LP - GET GOOD #2		22,591.	11,341.		
FROM K-1 - HIGHLAND CAPITAL MGMT, LP		1,360,353.	165,565.		
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS LP - DUGABOY LLC		3,498.	1,841.		
FROM K-1 - GRANITE BAY ADVISORS, LP		336.	2.		
FROM K-1 - ACIS CAPITAL MANAGEMENT, LP - ACIS GP LLC		20.	11.		
FROM K-1 - ACIS CAPITAL MANAGEMENT, LP - DUGABOY		12,199.	6,759.		
FROM K-1 - NEXPOINT ADVISORS, GP LLC		58.	19.		
FROM K-1 - NEXPOINT ADVISORS, L.P. - DUGABOY		57,549.	19,149.		
TOTAL INCLUDED IN FORM 1040, LINE 9B			313,068.		

19091014 792826

79
2013.04030 DONDERO, JAMES

STATEMENT(S) 12, 13

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EXPERT 0000308
Appx. 01110

EXHIBIT 67-4

Form 1040 (2014) **JAMES D. DONDERO** Page 2

Tax and Credits	38 Amount from line 37 (adjusted gross income)	38 59,549,723.
Standard Deduction for - • People who check any box on line 39a or 39b of who can be claimed as a dependent, see instructions. • All others: Single or Married filing separately, \$6,200 Married filing jointly or Qualifying widow(er), \$12,400 Head of household, \$9,100	39a Check <input type="checkbox"/> You were born before January 2, 1950, <input type="checkbox"/> Blind, <input type="checkbox"/> Total boxes checked ... 39a <input type="checkbox"/> if: <input type="checkbox"/> Spouse was born before January 2, 1950, <input type="checkbox"/> Blind, <input type="checkbox"/> checked ... 39b <input checked="" type="checkbox"/>	
	40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40 3,242,658.
	41 Subtract line 40 from line 38	41 56,307,065.
	42 Exemptions. If line 38 is \$152,525 or less, multiply \$3,950 by the number on line 6d. Otherwise, see inst.	42 0.
	43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43 56,307,065.
	44 Tax. Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/>	44 13,190,542.
	45 Alternative minimum tax. Attach Form 6251	45 0.
	46 Excess advance premium tax credit repayment. Attach Form 8962	46
	47 Add lines 44, 45, and 46	47 13,190,542.
	48 Foreign tax credit. Attach Form 1116 if required	48 98,016.
49 Credit for child and dependent care expenses. Attach Form 2441	49	
50 Education credits from Form 8863, line 19	50	
51 Retirement savings contributions credit. Attach Form 8880	51	
52 Child tax credit. Attach Schedule 8812, if required	52	
53 Residential energy credits. Attach Form 5695	53	
54 Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
55 Add lines 48 through 54. These are your total credits	55 98,016.	
56 Subtract line 55 from line 47. If line 55 is more than line 47, enter -0-	56 13,092,526.	
Other Taxes	57 Self-employment tax. Attach Schedule SE	57 15,692.
58 Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	58	
59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59 60,882.	
60a Household employment taxes from Schedule H	60a	
b First-time homebuyer credit repayment. Attach Form 5405 if required	60b	
61 Health care: Individual responsibility (see instructions) Full-year coverage <input checked="" type="checkbox"/>	61	
62 Taxes from: a <input checked="" type="checkbox"/> Form 8959 b <input checked="" type="checkbox"/> Form 8960 c <input type="checkbox"/> Inst.; enter code(s) <u>STATEMENT 23</u>	62 2,080,425.	
63 Add lines 56 through 62. This is your total tax	63 15,249,525.	
Payments	64 Federal income tax withheld from Forms W-2 and 1099	64 388,958.
65 2014 estimated tax payments and amount applied from 2013 return	65	
66a Earned income credit (EIC)	66a	
b Nontaxable combat pay election	66b	
67 Additional child tax credit. Attach Schedule 8812	67	
68 American opportunity credit from Form 8863, line 8	68	
69 Net premium tax credit. Attach Form 8962	69	
70 Amount paid with request for extension to file	70	
71 Excess social security and tier 1 RRTA tax withheld	71	
72 Credit for federal tax on fuels. Attach Form 4136	72	
73 Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> Reserved d <input type="checkbox"/>	73	
74 Add lines 64, 65, 66a, and 67 through 73. These are your total payments	74 388,958.	
Refund	75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid	75
76a Amount of line 75 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/>	76a	
Direct deposit? See instructions. b Routing number <input type="checkbox"/> c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings <input type="checkbox"/> Account number <input type="checkbox"/>	77	
77 Amount of line 75 you want applied to your 2015 estimated tax	77	
Amount You Owe	78 Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions	78 15,126,613.
79 Estimated tax penalty (see instructions)	79 266,046.	
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input checked="" type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No Designee's name <u>TODD CRAWFORD</u> Phone <u>713-982-2000</u> Personal identification number (PIN) <u>28788</u>	
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. Your signature <u>[Signature]</u> Date <u>11/2/2015</u> Your occupation <u>Executive</u> Daytime phone number <u>972-628-4100</u> Spouse's signature, if a joint return, both must sign. Date _____ Spouse's occupation _____ If the IRS sent you an Identity Protection PIN, enter it here _____	
Paid Preparer Use Only	Print/Type preparer's name <u>TODD CRAWFORD</u> Preparer's signature <u>TODD CRAWFORD</u> Date <u>11/02/15</u> Check <input type="checkbox"/> if self-employed PTIN <u>P00848788</u> Firm's name <u>DELOITTE TAX LLP</u> Firm's EIN <u>86-1065772</u> Phone no. <u>713-982-2000</u> 1111 BAGBY STREET, SUITE 4500 Firm's address <u>HOUSTON, TX 77002-2591</u>	

JAMES D. DONDERO

FORM 1040 WAGES RECEIVED AND TAXES WITHHELD STATEMENT 20

T S	EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T	HIGHLAND CAPITAL MANAGEMENT LP	3,282,693.	361,201.			7,254.	75,343.
T	HIGHLAND CAPITAL MGMT PTE LTD.	73,227.					
TOTALS		3,355,920.	361,201.			7,254.	75,343.

FORM 1040 QUALIFIED DIVIDENDS STATEMENT 21

NAME OF PAYER	ORDINARY DIVIDENDS	QUALIFIED DIVIDENDS
NEXPOINT	2,292,312.	207,477.
NEXPOINT - GET GOOD #2	91,123.	8,247.
FROM K-1 - HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.	170,404.	17,154.
FROM K-1 - PCMG TRADING PARTNERS XXIII, LP	18,241.	4,500.
FROM K-1 - STRAND ADVISORS III, INC.	247.	61.
FROM K-1 - STRAND ADVISORS, INC.	30,676.	22,761.
FROM K-1 - SERENGETI PARTNERS, LP - GET GOOD #2	80,697.	53,802.
FROM K-1 - HAYMAN CAPITAL PARTNERS LP - GET GOOD #2	265,627.	242,852.
FROM K-1 - HIGHLAND CAPITAL MGMT, LP	4,097,501.	3,040,190.
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS LP - DUGABOY LLC	4,945.	3,297.
FROM K-1 - GRANITE BAY ADVISORS, LP	1,778.	33.
FROM K-1 - ICONIQ STRATEGIC PARTNERS, L.P.	1.	1.
FROM K-1 - NEXPOINT ADVISORS, GP LLC	81.	4.
FROM K-1 - NEXPOINT ADVISORS, L.P. - DUGABOY	80,929.	3,738.
TOTAL INCLUDED IN FORM 1040, LINE 9B		3,604,117.

03181030 792826 2014.04030 DONDERO, JAMES

STATEMENT(S) 20, 21

EXHIBIT 67-5

Form 1040 (2015) **JAMES D. DONDERO** Page 2

Tax and Credits

38 Amount from line 37 (adjusted gross income) **38 106,251,803.**

39a Check ☐ You were born before January 2, 1951, ☐ Blind. ☐ Spouse was born before January 2, 1951, ☐ Blind. Total boxes checked **39a** ☐ **39b** ☐

40 Itemized deductions (from Schedule A) or your standard deduction (see left margin) **40 40,448,879.**

41 Subtract line 40 from line 38 **41 65,802,924.**

42 Exemptions. If line 38 is \$154,950 or less, multiply \$4,000 by the number on line 6d. Otherwise, see inst. **42 0.**

43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- **43 65,802,924.**

44 Tax. Check if any from: a ☐ Form(s) 8814 b ☐ Form 4972 c ☐ **44 24,485,784.**

45 Alternative minimum tax. Attach Form 6251 **45 0.**

46 Excess advance premium tax credit repayment. Attach Form 8962 **46**

47 Add lines 44, 45, and 46 **47 24,485,784.**

48 Foreign tax credit. Attach Form 1116 if required **48 41,902.**

49 Credit for child and dependent care expenses. Attach Form 2441 **49**

50 Education credits from Form 8863, line 19 **50**

51 Retirement savings contributions credit. Attach Form 8880 **51**

52 Child tax credit. Attach Schedule 8812, if required **52**

53 Residential energy credits. Attach Form 5695 **53**

54 Other credits from Form: a ☒ 3800 b ☐ 8801 c ☐ **54**

55 Add lines 48 through 54. These are your total credits **55 41,902.**

56 Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- **56 24,443,882.**

Other Taxes

57 Self-employment tax. Attach Schedule SE **57 27,478.**

58 Unreported social security and Medicare tax from Form: a ☐ 4137 b ☐ 8919 **58**

59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required **59**

60a Household employment taxes from Schedule H **60a**

b First-time homebuyer credit repayment. Attach Form 5405 if required **60b**

61 Health care: Individual responsibility (see instructions) Full-year coverage ☒ **61**

62 Taxes from: a ☒ Form 8959 b ☒ Form 8960 c ☐ Inst.; enter code(s) **STATEMENT 26** **62 1,176,409.**

63 Add lines 56 through 62. This is your total tax **63 25,647,769.**

Payments

64 Federal income tax withheld from Forms W-2 and 1099 **64 384,653.**

65 2015 estimated tax payments and amount applied from 2014 return **65**

66a Earned income credit (EIC) **66a**

b Nontaxable combat pay election **66b**

67 Additional child tax credit. Attach Schedule 8812 **67**

68 American opportunity credit from Form 8863, line 8 **68**

69 Net premium tax credit. Attach Form 8962 **69**

70 Amount paid with request for extension to file **70**

71 Excess social security and tier 1 RRTA tax withheld **71**

72 Credit for federal tax on fuels. Attach Form 4136 **72**

73 Credits from Form: a ☐ 2439 b ☐ Reserved c ☐ 8885 d ☐ **73**

74 Add lines 64, 65, 66a, and 67 through 73. These are your total payments **74 384,653.**

Refund

75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid **75**

76a Amount of line 75 you want refunded to you. If Form 8888 is attached, check here ☐ **76a**

b Routing number ☐ c type: ☐ Checking ☐ Savings ☐ Account number ☐

77 Amount of line 75 you want applied to your 2016 estimated tax **77**

Amount You Owe

78 Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions **78 25,263,116.**

79 Estimated tax penalty (see instructions) **79 0.**

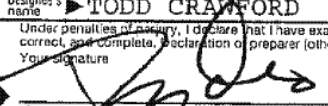
Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete below. ☐ No

Designee's name **TODD CRAWFORD** Phone no **713-982-2000** Personal identification number (PIN) **28788**

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature  Date **10/17/2016** Your occupation **Executive** Daytime phone number **972-628-4100**

Spouse's signature, if a joint return, both must sign. Date _____ Spouse's occupation _____

If the IRS sent you an Identity Protection PIN, enter it here _____

Print/Type preparer's name **TODD CRAWFORD** Preparer's signature **TODD CRAWFORD** Date **10/17/16** Check ☐ if self-employed PTIN **P00848788**

Use Only Firm's name **DELOITTE TAX LLP** Firm's EIN **86 1065772** Phone no. **713-982-2000**

1111 BAGBY STREET, SUITE 4500
HOUSTON, TX 77002-2591

510002 12-30-15

JAMES D. DONDERO

FORM 1040		WAGES RECEIVED AND TAXES WITHHELD			STATEMENT 23	
T S	EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX MEDICARE TAX
T	HIGHLAND CAPITAL MANAGEMENT LP	2,875,058.	360,577.			7,347. 65,764.
T	HIGHLAND CAPITAL MGMT PTE LTD.	61,880.				
TOTALS		2,936,938.	360,577.			7,347. 65,764.

FORM 1040		QUALIFIED DIVIDENDS		STATEMENT 24	
NAME OF PAYER		ORDINARY DIVIDENDS	QUALIFIED DIVIDENDS		
NEXPOINT CREDIT #1061004 - GET GOOD NE2		424,450.	7,055.		
NEXPOINT CREDIT #10671 - DUGABOY INVST,		5,075,869.	84,367.		
NEXPOINT CREDIT #1061005 - OTHER		668.	11.		
FROM K-1 - HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.		1,121,758.	17,419.		
FROM K-1 - PCMG TRADING PARTNERS XXIII, LP		81,701.	2,742.		
FROM K-1 - STRAND ADVISORS III, INC.		1,104.	37.		
FROM K-1 - STRAND ADVISORS, INC.		107,555.	10,350.		
FROM K-1 - SERENGETI PARTNERS, LP - GET GOOD #2		122,685.	36,501.		
FROM K-1 - HAYMAN CAPITAL PARTNERS LP - GET GOOD #2		5,733.	2,373.		
FROM K-1 - HIGHLAND CAPITAL MGMT, LP		14,222,996.	1,368,700.		
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS LP - DUGABOY LLC		7,513.	2,235.		
FROM K-1 - GRANITE BAY ADVISORS, LP		586.	12.		
FROM K-1 - NEXBANK CAPITAL, INC. - DUGABOY		2,126.	1,429.		
FROM K-1 - ICONIQ STRATEGIC PARTNERS, L.P.		89.	89.		
FROM K-1 - NEXPOINT ADVISORS, GP LLC		1,231.	3.		
FROM K-1 - NEXPOINT ADVISORS, L.P. - DUGABOY		1,229,938.	3,483.		
TOTAL INCLUDED IN FORM 1040, LINE 9B			1,536,806.		

10131017 149899 2015.04030 DONDERO, JAMES

94 STATEMENT(S) 23, 24

EXHIBIT 67-6

Form 1040 (2016) **JAMES D. DONDERO** Page **2**

Tax and Credits	38 Amount from line 37 (adjusted gross income) 38 67,070,747. 39a Check <input type="checkbox"/> You were born before January 2, 1952, <input type="checkbox"/> Blind. Total boxes checked 39a if: <input type="checkbox"/> Spouse was born before January 2, 1952, <input type="checkbox"/> Blind. 39b b If your spouse itemizes on a separate return or you were a dual-status alien, check here 39b 40 Itemized deductions (from Schedule A) or your standard deduction (see left margin) 40 35,026,261. 41 Subtract line 40 from line 38 41 32,044,486. 42 Exemptions. If line 38 is \$155,650 or less, multiply \$4,050 by the number on line 6d. Otherwise, see inst. 42 0. 43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- 43 32,044,486. 44 Tax. Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/> 44 10,668,862. 45 Alternative minimum tax. Attach Form 6251 45 0. 46 Excess advance premium tax credit repayment. Attach Form 8962 46 47 Add lines 44, 45, and 46 47 10,668,862. 48 Foreign tax credit. Attach Form 1116 if required 48 23,346. 49 Credit for child and dependent care expenses. Attach Form 2441 49 50 Education credits from Form 8863, line 19 50 51 Retirement savings contributions credit. Attach Form 8880 51 52 Child tax credit. Attach Schedule 3812, if required 52 53 Residential energy credits. Attach Form 5695 53 54 Other credits from Form: a <input checked="" type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/> 54 55 Add lines 48 through 54. These are your total credits 55 23,346. 56 Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- 56 10,645,516. 57 Self-employment tax. Attach Schedule SE 57 33,600. 58 Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919 58 59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required 59 60a Household employment taxes from Schedule H 60a b First-time homebuyer credit repayment. Attach Form 5405 if required 60b 61 Health care: Individual responsibility (see instructions) Full-year coverage <input checked="" type="checkbox"/> 61 62 Taxes from: a <input checked="" type="checkbox"/> Form 8959 b <input checked="" type="checkbox"/> Form 8960 c <input checked="" type="checkbox"/> Inst.; enter code(s) STATEMENT 17 62 1,128,115. 63 Add lines 56 through 62. This is your total tax 63 11,807,231. 64 Federal income tax withheld from Forms W-2 and 1099 64 361,603. 65 2016 estimated tax payments and amount applied from 2015 return 65 * 7,900,000. 66a Earned income credit (EIC) 66a b Nontaxable combat pay election 66b 67 Additional child tax credit. Attach Schedule 8812 67 68 American opportunity credit from Form 8863, line 8 68 69 Net premium tax credit. Attach Form 8962 69 70 Amount paid with request for extension to file 70 71 Excess social security and tier 1 RRTA tax withheld STMT 15 71 7,347. 72 Credit for federal tax on fuels. Attach Form 4136 72 73 Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8885 d <input type="checkbox"/> 73 74 Add lines 64, 65, 66a, and 67 through 73. These are your total payments 74 8,268,950. 75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid 75 76a Amount of line 75 you want refunded to you . If Form 8888 is attached, check here 76a b Routing number 76b c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings 76c d Account number 76d 77 Amount of line 75 you want applied to your 2017 estimated tax 77 78 Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions 78 3,810,722. 79 Estimated tax penalty (see instructions) 79 272,441.
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Other Taxes

Payments

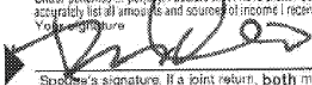
Refund

Amount You Owe

Third Party Designee Do you want to allow another person to discuss this return with the IRS (see instructions)? ☒ Yes. Complete below. ☐ No

Designee's name **TODD CRAWFORD** Phone no. **713-982-2000** Personal identification number (PIN) **28788**

Sign Here Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature  Date **1/25/18** Your occupation **Executive** Daytime phone number

Spouse's signature. If a joint return, both must sign. Date Spouse's occupation If the IRS sent you an Identity Protection PIN, enter it here

Print/Type preparer's name **TODD CRAWFORD** Preparer's signature **TODD CRAWFORD** Date **01/18/18** Check ☐ if self-employed PTIN **P00848788**

Use Only Firm's name **DELOITTE TAX LLP** Firm's EIN **86-1065772**
 1111 BAGBY STREET, SUITE 4500 Phone no. **713-982-2000**
 HOUSTON, TX 77002-2591

610002 11-30-16 Firm's address **HOUSTON, TX 77002-2591**

* \$7,900,000 PAYMENT MADE ON 1/18/2018. SEE CONFIRMATION ATTACHED.

JAMES D. DONDERO

FORM 1040		WAGES RECEIVED AND TAXES WITHHELD			STATEMENT 13		
T S	EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T	HIGHLAND CAPITAL MANAGEMENT LP	772,904.	260,529.			7,347.	16,363.
T	NEXPOINT ADVISORS LP	1,628,736.	83,026.			7,347.	36,475.
T	HIGHLAND CAPITAL MGMT PTE LTD.	67,166.					
TOTALS		2,468,806.	343,555.			14,694.	52,838.

FORM 1040		QUALIFIED DIVIDENDS		STATEMENT 14	
NAME OF PAYER		ORDINARY DIVIDENDS	QUALIFIED DIVIDENDS		
NEXPOINT CREDIT #1061004 - GET GOOD NE2		114,812.	9,964.		
NEXPOINT CREDIT #1061005 - OTHER		1,447.	126.		
NEXPOINT CREDIT #10671 - DUGABOY INVST, FROM K-1 - HIGHLAND CRUSADER FUND, LP - JIM		1,741,293.	151,116.		
FROM K-1 - HIGHLAND CAPITAL MANAGEMENT SERVICES, INC.		1.	1.		
FROM K-1 - PCMG TRADING PARTNERS XXIII, LP		301,224.	25,062.		
FROM K-1 - STRAND ADVISORS III, INC.		23,745.	1,635.		
FROM K-1 - STRAND ADVISORS, INC.		321.	22.		
FROM K-1 - SERENGETI PARTNERS, LP - GET GOOD #2		21,524.	1,432.		
FROM K-1 - HIGHLAND CAPITAL MGMT, LP		140,229.	29,857.		
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS LP - DUGABOY LLC		16,011.	1,065.		
FROM K-1 - GRANITE BAY ADVISORS, LP		8,818.	1,835.		
FROM K-1 - HCM - MULTI-STRATEGY INSURANCE DEDICATED FUND, L.P.		837.	316.		
FROM K-1 - NEXBANK CAPITAL, INC. - DUGABOY		153.	153.		
FROM K-1 - ICONIQ STRATEGIC PARTNERS, L.P.		60,393.	59,222.		
FROM K-1 - NEXPOINT ADVISORS, GP LLC		368.	368.		
FROM K-1 - NEXPOINT ADVISORS, L.P. - DUGABOY		1,403.	57.		
FROM K-1 - HCRE PARTNERS, LLC		1,401,150.	56,892.		
FROM K-1 - NEXBANK CAPITAL, INC.		17,215.	14,820.		
FROM K-1 - RAND PE FUND I LP		2,371.	2,325.		
FROM K-1 - NEXBANK CAPITAL-GRANT SCOTT SLHC TRUST		67,914.	4,633.		
		836.	819.		
			361,720.		

89

STATEMENT(S) 13, 14

18261204 149899

2016.05010 DONDERO, JAMES

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EXPERT 0002179
Appx. 01119

EXHIBIT 67-7

Form 1040 (2017)

JAMES D. DONDERO

Page 2

Tax and Credits

Standard Deduction for -

• People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions.

• All others:

Single or Married filing separately, \$6,350

Married filing jointly or Qualifying widow(er), \$12,700

Head of household, \$9,350

38	Amount from line 37 (adjusted gross income)	38	46,135,397.
39a	Check <input type="checkbox"/> You were born before January 2, 1953, <input type="checkbox"/> Blind. <input type="checkbox"/> Spouse was born before January 2, 1953, <input type="checkbox"/> Blind. Total boxes checked ... 39a <input type="checkbox"/>		
b	If your spouse itemizes on a separate return or you were a dual-status alien, check here ... 39b <input type="checkbox"/>		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	25,717,217.
41	Subtract line 40 from line 38	41	20,418,180.
42	Exemptions. If line 38 is \$156,900 or less, multiply \$4,050 by the number on line 6d. Otherwise, see inst.	42	0.
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	20,418,180.
44	Tax. Check if any from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972 c <input type="checkbox"/>	44	7,995,763.
45	Alternative minimum tax. Attach Form 6251	45	0.
46	Excess advance premium tax credit repayment. Attach Form 8962	46	
47	Add lines 44, 45, and 46	47	7,995,763.
48	Foreign tax credit. Attach Form 1116 if required	48	
49	Credit for child and dependent care expenses. Attach Form 2441	49	
50	Education credits from Form 8863, line 19	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child tax credit. Attach Schedule 8812, if required	52	
53	Residential energy credits. Attach Form 5695	53	
54	Other credits from Form: a <input checked="" type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
55	Add lines 48 through 54. These are your total credits	55	
56	Subtract line 55 from line 47. If line 55 is more than line 47, enter -0-	56	7,995,763.
57	Self-employment tax. Attach Schedule SE	57	116,052.
58	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60a	Household employment taxes from Schedule H	60a	
b	First-time homebuyer credit repayment. Attach Form 5405 if required	60b	
61	Health care: Individual responsibility (see instructions) Full-year coverage <input checked="" type="checkbox"/>	61	
62	Taxes from: a <input checked="" type="checkbox"/> Form 8959 b <input checked="" type="checkbox"/> Form 8960 c <input checked="" type="checkbox"/> Inst.; enter code(s) STATEMENT 12	62	496,784.
63	Add lines 56 through 62. This is your total tax	63	8,608,599.
64	Federal income tax withheld from Forms W-2 and 1099	64	994,763.
65	2017 estimated tax payments and amount applied from 2016 return	65	
66a	Earned income credit (EIC)	66a	
b	Nontaxable combat pay election 66b	66b	
67	Additional child tax credit. Attach Schedule 8812	67	
68	American opportunity credit from Form 8863, line 8	68	
69	Net premium tax credit. Attach Form 8962	69	
70	Amount paid with request for extension to file	70	
71	Excess social security and tier 1 RRTA tax withheld STMT 10	71	15,772.
72	Credit for federal tax on fuels. Attach Form 4136	72	
73	Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> Reserved c <input type="checkbox"/> 8885 d <input type="checkbox"/>	73	
74	Add lines 64, 65, 66a, and 67 through 73. These are your total payments	74	1,010,535.
75	If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid	75	
76a	Amount of line 75 you want refunded to you. If Form 8888 is attached, check here	76a	
b	Routing number <input type="text"/> c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings d Account number <input type="text"/>		
77	Amount of line 75 you want applied to your 2018 estimated tax	77	
78	Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions	78	7,777,274.
79	Estimated tax penalty (see instructions)	79	179,210.
Third Party Designee	Do you want to allow another person to discuss this return with the IRS (see instructions)? <input checked="" type="checkbox"/> Yes. Complete below. <input type="checkbox"/> No		
Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and accurately list all amounts and sources of income I received during the tax year. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.		
Joint return?	Your signature _____ Date _____ Your occupation _____ Daytime phone number _____		
See instructions. Keep a copy for your records.	Spouse's signature, if a joint return, both must sign. _____ Date _____ Spouse's occupation _____ If the IRS sent you an Identity Protection PIN, enter it here _____		
Paid Preparer Use Only	Print/Type preparer's name _____ Preparer's signature _____ Date _____ Check <input type="checkbox"/> if self-employed PTIN _____		
	Firm's name TODD CRAWFORD Firm's EIN 86-1065772		
	1111 BAGBY STREET, SUITE 4500 Phone no. 713-982-2000		
	Firm's address HOUSTON, TX 77002-2591		

SEE STMT FOR INT AND PEN NOT INCLUDED. TOTAL DUE \$8198081

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EXPERT 0000704
Appx. 01121

JAMES D. DONDERO

FORM 1040	TAX-EXEMPT INTEREST	STATEMENT 7
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NAME OF PAYER	AMOUNT
JP MORGAN #05641 - T/E	67.
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS LP - DUGABOY LLC	1.
FROM K-1 - ICONIQ STRATEGIC PARTNERS, L.P.	7.
FROM K-1 - NEXBANK CAPITAL, INC. & SUBS	216,400.
FROM K-1 - NEXBANK CAPITAL-GRANT SCOTT SLHC TRUST	4,208,755.
TOTAL TO FORM 1040, LINE 8B	4,425,230.

FORM 1040	WAGES RECEIVED AND TAXES WITHHELD	STATEMENT 8
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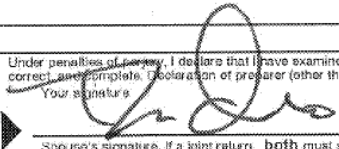
T S EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T HIGHLAND CAPITAL MANAGEMENT LP	566,370.	177,722.			7,886.	11,510.
T NEXPOINT ADVISORS LP	3,118,250.	627,283.			7,886.	71,479.
T NEXPOINT RESIDENTIAL TRUST INC	625,467.	156,367.			7,886.	12,898.
T HIGHLAND CAPITAL MGMT PTE LTD.	96,000.					
TOTALS	4,406,087.	961,372.			23,658.	95,887.

STATEMENT(S) 7, 8

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EXPERT 0000872
Appx. 01122

EXHIBIT 67-8

Form 1040		Department of the Treasury - Internal Revenue Service		(99)	2018	EXTENSION GRANTED TO 10/15/19	OMB No. 1545-0074	IRS Use Only - Do not write or staple in this space.
U.S. Individual Income Tax Return								
Filing status: <input type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately <input checked="" type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er)								
Your first name and initial JAMES D.			Last name DONDERO					
Your standard deduction:			Someone can claim you as a dependent			You were born before January 2, 1954		
If joint return, spouse's first name and initial			Last name			Spouse's social security number		
Spouse standard deduction:			Someone can claim your spouse as a dependent			Spouse was born before January 2, 1954		
<input type="checkbox"/> Spouse is blind			<input type="checkbox"/> Spouse itemizes on a separate return or you were dual-status alien			<input checked="" type="checkbox"/> Full-year health care coverage or exempt (see inst.)		
Home address (number and street). If you have a P.O. box, see instructions.						Apt. no.		Presidential Election Campaign. (see inst.) <input type="checkbox"/> You <input type="checkbox"/> Spouse
City, town or post office, state, and ZIP code. If you have a foreign address, attach Schedule G.								If more than four dependents, see inst. and <input checked="" type="checkbox"/> here <input type="checkbox"/>
Dependents (see instructions):			(2) Social security number		(3) Relationship to you		(4) <input checked="" type="checkbox"/> if qualifies for (see inst.):	
(1) First name			Last name				Child tax credit	
							<input checked="" type="checkbox"/>	
Sign Here			Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.					
Your signature			Date		Your occupation		If the IRS sent you an Identity Protection PIN, enter it here	
			10/12/19		Executive			
Spouse's signature. If a joint return, both must sign.			Date		Spouse's occupation		If the IRS sent you an Identity Protection PIN, enter it here	
Paid Preparer Use Only			Preparer's name		Preparer's signature		PTIN	
			TODD CRAWFORD				P00848788	
							Firm's EIN	
							86-1065772	
							Check if:	
							<input checked="" type="checkbox"/> 3rd Party Designee	
							<input type="checkbox"/> Self-employed	
Firm's name			DELOITTE TAX LLP					
Firm's address			1111 BAGBY STREET, SUITE 4500					
			HOUSTON, TX 77002-2591					
			Phone no. 713-982-2000					
LHA For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions.								

833921 12-13-18

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EXPERT 0001581
Appx. 01124

JAMES D. DONDERO

FORM 1040		WAGES RECEIVED AND TAXES WITHHELD			STATEMENT 9	
T S EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T HIGHLAND CAPITAL MANAGEMENT LP	566,370.	172,663.			7,961.	11,510.
T NEXPOINT ADVISORS LP	2,870,278.	682,902.			7,961.	65,651.
T NEXPOINT RESIDENTIAL TRUST INC	893,262.	196,518.			7,961.	19,192.
T HIGHLAND CAPITAL MGMT PTE LTD.	68,840.					
TOTALS	4,398,750.	1,052,083.			23,883.	96,353.

FORM 1040		TAX-EXEMPT INTEREST	STATEMENT 10
NAME OF PAYER	AMOUNT		
JP MORGAN #05641	174.		
FROM K-1 - SERENGETI OPPORTUNITIES PARTNERS - DUGABOY LLC	1.		
TOTAL TO FORM 1040, LINE 2A	175.		

STATEMENT(S) 9, 10

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EXPERT 0001828
Appx. 01125

EXHIBIT 67-9

Form 1040 (2019) **JAMES D. DONDERO** Page 2

12a Tax (see inst.) Check if any from Form(s): ☐ 1 ☐ 8814 ☐ 2 ☐ 4972 ☐ 3 ☐ **12a** 448,223.

b Add Schedule 2, line 3, and line 12a and enter the total **12b** 497,662.

13a Child tax credit or credit for other dependents **13a**

b Add Schedule 3, line 7, and line 13a and enter the total **13b**

14 Subtract line 13b from line 12b. If zero or less, enter -0- **14** 497,662.

15 Other taxes, including self-employment tax, from Schedule 2, line 10 **15** 682,137.

16 Add lines 14 and 15. This is your **total tax** **16** 1,179,799.

17 Federal income tax withheld from Forms W-2 and 1099 SEE STATEMENT 4 **17** 1,461,134.

18 Other payments and refundable credits:

a Earned income credit (EIC) **18a**

b Additional child tax credit. Attach Schedule 8812 **18b**

c American opportunity credit from Form 8863, line 8 **18c**

d Schedule 3, line 14 **18d** 16,480.

e Add lines 18a through 18d. These are your **total other payments and refundable credits** **18e** 16,480.

19 Add lines 17 and 18e. These are your **total payments** **19** 1,477,614.

Refund **20** If line 19 is more than line 16, subtract line 16 from line 19. This is the amount you **overpaid** **20** 297,815.

21a Amount of line 20 you want **refunded to you**. If Form 8888 is attached, check here ☐ **21a** 297,815.

Direct deposit? See instructions. **b** Routing number **c** Type: ☐ Checking ☐ Savings

d Account number

22 Amount of line 20 you want **applied to your 2020 estimated tax** **22**

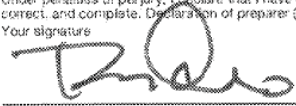
Amount **23** **Amount you owe.** Subtract line 19 from line 16. For details on how to pay, see instructions **23**

You Owe **24** **Estimated tax penalty (see instructions)** **24**

Third Party Designee Do you want to allow another person (other than your paid preparer) to discuss this return with the IRS? See instructions. ☐ **Yes. Complete below.** ☒ **No**

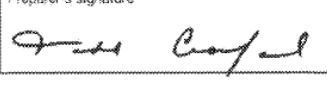
Designee's name Phone no. Personal identification number (PIN)

Sign Here Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature  Date 10/15/20 Your occupation President If the IRS sent you an Identity Protection PIN, enter it here (see inst.)

Spouse's signature. If a joint return, **both** must sign. Date Spouse's occupation If the IRS sent your spouse an Identity Protection PIN, enter it here (see inst.)

Phone no. Email address

Paid Preparer Use Only Preparer's name TODD CRAWFORD Preparer's signature  Date 10/13/20 PTIN P00848788 Check if: ☒ 3rd Party Designee ☐ Self-employed

Firm's name DELOITTE TAX LLP Phone no. 713-982-2000 Firm's EIN 86-1065772

Firm's address 1111 BAGBY STREET, SUITE 4500

HOUSTON, TX 77002-2591

Go to www.irs.gov/Form1040 for instructions and the latest information. Form 1040 (2019)

913022 12-02-19

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EXPERT 0001023
Appx. 01127

JAMES D. DONDERO

FORM 1040		WAGES RECEIVED AND TAXES WITHHELD			STATEMENT 1	
T S EMPLOYER'S NAME	AMOUNT PAID	FEDERAL TAX WITHHELD	STATE TAX WITHHELD	CITY SDI TAX W/H	FICA TAX	MEDICARE TAX
T HIGHLAND CAPITAL MANAGEMENT LP	568,542.	171,707.			8,240.	11,561.
T NEXPOINT ADVISORS LP	1,953,455.	684,952.			8,240.	44,106.
T NEXPOINT RESIDENTIAL TRUST INC	1,944,956.	569,634.			8,240.	43,906.
T HIGHLAND CAPITAL MGMT PTE LTD.	29,352.					
TOTALS	4,496,305.	1,426,293.			24,720.	99,573.

FORM 1040		TAX-EXEMPT INTEREST	STATEMENT 2
NAME OF PAYER	AMOUNT		
JP MORGAN #05641	169.		
TOTAL TO FORM 1040, LINE 2A	169.		

STATEMENT(S) 1, 2

EXHIBIT 68

James Dondero
Compensation and Benefit Statement

Job Title: Partner
 Department: Executive

EARNINGS AND AWARDS

2016 Base Salary (as of 12/31/16) \$1,062,500

Effective March 1, 2017, your new base salary will be: \$2,500,000

2016 Other Awards

401(k) Match \$ 4,800

Estimated 2016 Profit Sharing (will be contributed in 2017) \$ 19,875

*Final profit sharing award subject to passing IRS mandated testing

2016 Deferred Compensation Award \$1,200,000

- It is expected that you will receive approximately 50,000 restricted stock units of NXRT relating to the 2016 performance year, which have a current market value of approximately \$1,200,000

2016 Total Earnings and Awards \$2,287,175

HIGHLAND PAID BENEFITS

Medical & Dental Insurance \$ 13,056

Life, AD&D and Disability Insurance \$ 968

Executive Long Term Disability \$ 1,260

Daily Catered Lunches \$ 3,000

Parking \$ 2,160

2016 Estimated Total Value of Highland Paid Benefits \$ 20,444

TOTAL COMPENSATION PACKAGE \$2,307,619

EXHIBIT 69

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

**Consolidated Financial Statements and
Supplemental Information
December 31, 2014**

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Index
December 31, 2014

	Page(s)
Independent Auditor's Report	1
Audited Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Changes in Partners' Capital.....	4
Consolidated Statement of Cash Flows.....	5
Consolidated Notes to Financial Statements	6–42
Supplemental Information.....	43–47



Independent Auditor's Report

To the General Partner of Highland Capital Management, L.P.:

We have audited the accompanying consolidated financial statements of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership"), which comprise the consolidated balance sheet as of December 31, 2014, and the related consolidated statements of income, of changes in partners' capital and of cash flows for the year then ended.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Partnership's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Partnership's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Highland Capital Management, L.P. and its subsidiaries at December 31, 2014, and the results of their operations, changes in their partners' capital and their cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The Supplemental Consolidating Balance Sheet, the Supplemental Consolidating Statement of Income, the Supplemental Unconsolidated Balance Sheet and the Supplemental Unconsolidated Statement of Income are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. The information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves and other additional procedures, in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the consolidated financial statements taken as a whole.

PricewaterhouseCoopers LLP

May 21, 2015

PricewaterhouseCoopers LLP, 2001 Ross Avenue, Suite 1800, Dallas, Texas 75201
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Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2014

(in thousands)

Assets

Cash and cash equivalents	\$ 66,033
Restricted cash	137,855
Investments at fair value (cost \$2,266,538)	1,877,339
Management and incentive fees receivable	8,570
Due from broker for securities sold, not yet settled	32,536
Other assets	64,443
Deferred incentive fees receivable	32,592
Fixed assets and leasehold improvements, net of accumulated depreciation of \$5,768	8,067
Total assets	\$ 2,227,435

Liabilities and partners' capital

Liabilities

Accounts payable	\$ 5,167
Securities sold, not yet purchased (proceeds \$43,015)	41,815
Withdrawals payable	82,833
Due to brokers	739,483
Due to brokers for securities purchased, not yet settled	67,541
Accrued and other liabilities	100,538
Debt and notes payable	41,639
Total liabilities	1,079,016

Non-controlling interest 621,306

Commitments (Note 10)

Partners' capital 527,113

Total liabilities and partners' capital **\$ 2,227,435**

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
Consolidated Statement of Income
Year Ended December 31, 2014

(in thousands)

Revenue:

Management fees	\$	67,570
Interest and investment income		57,451
Other income		10,490
Total revenue		<u>135,511</u>

Expenses:

Compensation and benefits	37,693
Professional fees	23,935
Marketing and advertising expense	6,140
Investment and research consulting	507
Depreciation and amortization	1,358
Tax expense	1,892
Other operating expenses	<u>17,265</u>
Total expenses	<u>88,790</u>

Other income	1,655
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Income before investment and derivative activities	<u>48,376</u>
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Realized and unrealized gain/loss from investment and derivative transactions:

Net realized loss on investment and derivative transactions	(172,002)
Net change in unrealized gain on investment and derivative transactions	<u>260,351</u>
Total realized and unrealized gain from investment and derivative transactions	<u>88,349</u>

Net income	136,725
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Net loss attributable to the non-controlling interest	<u>8,604</u>
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Net income attributable to Highland Capital Management, L.P.	<u>\$ 145,329</u>
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The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2014

(in thousands)

	<u>General Partner</u>	<u>Limited Partners</u>	<u>Total</u>
Partners' capital, December 31, 2013	<u>\$ 131</u>	<u>\$ 407,431</u>	<u>\$ 407,562</u>
Net income attributable to Highland Capital Management, L.P.	-	145,329	145,329
Partner distributions	<u>(131)</u>	<u>(25,647)</u>	<u>(25,778)</u>
Partners' capital, December 31, 2014	<u>\$ -</u>	<u>\$ 527,113</u>	<u>\$ 527,113</u>

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2014

(in thousands)

Cash flows from operating activities:

Net income	\$ 136,725
Adjustment to reconcile net income to cash and cash equivalents provided by operating activities:	
Cash provided by operating activities:	
Net realized loss on investments and derivative transactions	172,002
Net change in unrealized gain on investments and derivative transactions	(260,351)
Amortization and depreciation	1,358
Changes in assets and liabilities:	
Restricted cash	(135,154)
Management and incentive fee receivable	6,064
Deferred incentive fees	224
Other assets	1,053
Accounts payable	79
Accrued and other liabilities	22,000
Due from brokers	(1,294)
Due to brokers for securities purchased, not yet settled	11,193
Tax Payable	(8,232)
Due to Brokers	237,280
Net cash provided by operating activities	<u>182,947</u>

Cash flows from investing activities:

Purchases of fixed assets and leasehold improvements, net	(356)
Purchases of investments	(805,656)
Proceeds from dispositions of investments	597,251
Proceeds from securities sold, not yet purchased	59,267
Issuance of notes receivable	(37,351)
Purchases of investments to cover securities sold, not yet purchased	(17,228)
Net cash used in investing activities	<u>(204,073)</u>

Cash flows from financing activities:

Capital contributions from minority interest investors of consolidated entities	4,914
Capital withdrawals by minority interest investors of consolidated entities	(118,973)
Capital withdrawals by investors	58,145
Partner distributions	(25,778)
Net cash used in financing activities	<u>(81,692)</u>

Net decrease in cash and cash equivalents (102,818)

Cash and cash equivalents

Beginning of year	162,510
Additional cash from new consolidated funds	6,341
End of year	<u>\$ 66,033</u>

Supplemental disclosure of cash flow informaton:

Interest paid during the year	\$ (734)
Taxes paid during the year	(7,377)

Non-cash investing activities

Investments purchased in-kind	41,639
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The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
Notes to Consolidated Financial Statements
December 31, 2014

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment adviser under the Investment Advisers Act of 1940 that manages collateralized loan obligations ("CLOs"), hedge funds, private equity funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is 100% owned by senior management of the Partnership.

As of December 31, 2014, the Partnership provided investment advisory services for twenty-seven CLOs, six separate accounts, one registered investment company, one master limited partnership, and sixteen hedge fund or private equity structures, with total fee-earning assets under management of approximately \$11.4 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs' expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIEs (along with majority owned funds: Highland Diversified Credit Fund, L.P., Highland Select Equity Fund, L.P., Highland Equity Partners, L.P., Highland Merger Arbitrage Fund, L.P., and Highland Equity Focus Fund, L.P., collectively the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005;
- Highland Multi Strategy Credit Fund, L.P. ("Multi Strategy Master"), formerly Highland Credit Opportunities CDO, L.P., a Delaware limited partnership that commenced operations on December 29, 2005 and changed its name on August 26, 2014;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore") a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore") a Delaware limited partnership that commenced operations on September 2, 2008
- BB Votorantim, Highland Infrastructure LLC ("BB Votorantim"), a Delaware limited liability company which began operations on May 29, 2014; and

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in HCM Europe, Ltd. ("HCM Europe") a company organized in the United Kingdom and formed by the Partnership on December 7, 2012;
- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 100% interest in Highland Capital Management Korea, Ltd. a company organized in the Republic of Korea that commenced operations on August 2, 2012;
- 100% interest in HE Capital, LLC., a Delaware limited liability company that was formed on March 22, 2007;
- 100% interest in De Kooning, Ltd, a Cayman company that was formed on December 1, 2012;
- 100% interest in Hirst, Ltd. a Cayman company that was formed on December 1, 2012;
- 100% interest in Hockney, Ltd. a Cayman company that was formed on December 1, 2012;
- 100% interest in Oldenburg, Ltd. a Cayman company that was formed on December 1, 2012;
- 99.9% interest in Penant Management, LP. a Delaware limited partnership that was formed on December 12, 2012;
- 100% interest in Semence, LLC a Delaware limited liability company that was formed on December 16, 2013;
- 100% interest in SK Shareholder Services, LLC a Delaware limited liability company that was formed on October 24, 2013;
- 100% interest in Pollack, Ltd. a Cayman company that was formed on December 1, 2012;
- 100% interest in Warhol, Ltd. a Cayman company that was formed on December 1, 2012;
- 100% interest in HCREF-I Holding Corp. a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREF-X Holding Corp. a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREF-XI Holding Corp. a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREF-XII Holding Corp. a Delaware company that was formed on December 13, 2012;
- 80% interest in Highland Employee Retention Assets, LLC a Delaware limited liability company that was formed on October 26th, 2009;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

- 100% interest in Highland Diversified Credit Fund, LP, a Delaware limited partnership which began operations on February 29, 2000 and was organized for the sole purpose of investing substantially all of its assets in Highland Offshore Partners, L.P;
- 99.6% interest in Highland Select Equity Fund, LP, a Delaware limited partnership which began operations on January 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value
- 100% interest in Highland Equity Partners, LP, a Delaware limited partnership which began operations on August 1, 2013 and was organized for the purpose of investing with long-term perspective in a concentrated portfolio of stocks;
- 99.6% interest in Highland Equity Focus Fund, LP, a Delaware limited partnership which began operations on September 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value;
- 100% interest in Highland Merger Arbitrage Fund, LP, a Delaware limited partnership which began operations on October 16, 2014; and

All inter-partnership and intercompany accounts and transactions have been eliminated in consolidation of all of the aforementioned consolidated entities. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Due to the deconsolidation of certain investment funds, some prior year balances referenced within the following notes to the consolidated financial statements may not tie to prior year issued financial statements.

The following table includes a rollforward of noncontrolling interests from December 31, 2013, to December 31, 2014.

(in thousands)

Noncontrolling interest, December 31, 2013	<u>\$ 748,463</u>
Net loss attributable to noncontrolling interest	(8,604)
Noncontrolling partner contributions	4,914
Noncontrolling partner distributions	(118,973)
Noncontrolling interest of deconsolidated entities	(4,494)
Noncontrolling interest, December 31, 2014	<u>\$ 621,306</u>

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

See Note 5 for the Partnership's fair value process and hierarchy disclosures.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2014, the Partnership and its consolidated entities recognized management fees of approximately \$67.5 million. The Partnership recognized approximately \$0.2 million of depreciation on incentive fees earned prior to 2008, previously deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the Consolidated Statement of Income.

Shared Services Revenue

The Partnership recognizes revenue as earned in connection with services provided to related parties under various shared services agreements. Under these agreements, the Partnership earns fees for services including, but not limited to, back office support functions, marketing, and investment advisory services. During the year ended December 31, 2014, the Partnership and its consolidated entities recognized shared services revenue of approximately \$9.2 million, which has been presented in *Other Income* in the Consolidated Statement of Income. See further discussion in Note 8.

Income and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums associated with purchases of investments are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis over the life of the investment. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. See further discussion in Note 12.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Cash equivalents are carried at cost, which approximates market value. At December 31, 2014, the Partnership and Consolidated Funds held cash balances at certain financial institutions in excess of the federally insured limit of \$0.3 million. The Partnership and Consolidated Funds regularly monitor the credit quality of these institutions.

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash on the Consolidated Balance Sheet.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Investment Manager's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand.

Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender. A gain (which cannot exceed the price at which the Consolidated Investment Funds sold the security short) or a loss (which theoretically could be unlimited in size) will be settled upon termination of a short sale.

Options Contracts

The Partnership and the Consolidated Investment Funds may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership or the Consolidated Investment Funds purchase (write) an option, an amount equal to the premium paid (received) by the entity is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the Partnership or the Consolidated Investment Funds enter into a closing transaction), the entity realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership or the Consolidated Investment Funds purchasing a security at a price different from the current market value.

The Partnership and the Consolidated Investment Funds are exposed to counterparty risk from the potential that a seller of an option contract does not sell or purchase the underlying asset as agreed under the terms of the option contract. The maximum risk of loss from counterparty risk to the Partnership and the Consolidated Investment Funds is the greater of the fair value of its open option contracts or the premiums paid to purchase the open option contracts. The Partnership and the Consolidated Investment Funds consider the credit risk of the intermediary counterparties to its option transactions in evaluating potential credit risk.

Margin Transactions

To obtain more investable cash, the Consolidated Investment Funds may use various forms of leverage including purchasing securities on margin. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2014. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. At December 31, 2014, the Consolidated Investment Funds had withdrawals payable of \$82.8 million.

Foreign Currency Transactions

The Partnership's subsidiaries HCM Europe and HCM Singapore use British Pounds and Singapore dollars as their functional currency, respectively. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2014. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the consolidated statement of income.

The Consolidated Investment Funds do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments*.

Life Settlement Contracts

One of the Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of *Purchase of investments* and *Proceeds from dispositions of investments* on the Consolidated Statement of Cash Flows.

Financial Instruments

The Partnership and its consolidated entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Recently Issued Accounting Standards and Interpretations

In August, 2014, the FASB issued Accounting Standards Update 2014-15 – "Presentation of Financial Statement – Going Concern" (Subtopic 205-40). The amendments in this Update apply to all reporting entities. The main provisions of this Update are in connection with preparing annual and interim financial statements. Management should evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the entity's ability to continue as a going concern within one year after the date that the financial statement are issued. The amendments are effective for the annual period ending after December 15, 2016. This statement is not expected to have a material impact on the Partnership's financial statements.

In February 2015, the FASB issued ASU 2015-02 "ASC Topic 810, Consolidation." ASU 2015-02 modifies the evaluation of whether limited partnerships and similar legal entities are variable interest entities or voting interest entities, eliminates the presumption that a general partner should consolidate a limited partnership, affects the consolidation analysis of reporting entities that are involved with VIEs, and provides other updates on guidance regarding consolidation. ASU 2015-02 is effective for fiscal years beginning after December 15, 2016. Management is evaluating the impact of ASU 2015-02 on the Partnership's financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

3. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2014:

(in thousands)

Leasehold improvements	\$ 6,441
Buildings	2,595
Furniture and fixtures	2,596
Computer and equipment	1,932
Computer software	271
Accumulated depreciation	<u>(5,768)</u>
	<u>\$ 8,067</u>

The Partnership and its consolidated entities are depreciating fixed assets as follows:

	<u>Period</u>
Leasehold improvements	Lease term
Buildings	29 - 40 years
Furniture and fixtures	7 years
Computer and equipment	5 years
Computer software	3 years

Depreciation expense in 2014 totaled approximately \$1.4 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

4. Investments

Detailed below is a summary of the Partnership and its consolidated entities investments at December 31, 2014:

(in thousands)

	Amortized Cost/Cost	Fair Value
Common equity securities	\$ 875,293	\$ 1,027,376
Limited partnership interests	134,080	205,900
Asset-backed securities	249,269	182,054
Preferred equity	59,994	121,500
Floating rate syndicated bank loans	201,845	116,952
Life settlement contracts	418,467	114,640
Closed-end mutual funds	58,443	68,433
LLC interests	72,985	31,378
Rights & warrants	50,732	6,477
Corporate bonds	144,712	2,546
Options contracts	718	83
Total investments	\$ 2,266,538	\$ 1,877,339
	Proceeds	Fair Value
Securities sold, not yet purchased	\$ (43,015)	\$ (41,815)

5. Fair Value of Financial Instruments

Fair Value Measurement

U.S. GAAP defines fair value as the price an entity would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants as of the measurement date. The standard requires fair value measurement techniques to reflect the assumptions market participants would use in pricing an asset or liability and, where possible, to maximize the use of observable inputs and minimize the use of unobservable inputs. It also establishes the following hierarchy that prioritizes the valuation inputs into three broad levels:

- Level 1 – Valuation based on unadjusted quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Investment Funds have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active that are reflective of recent market transactions; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Investment Funds use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being reclassified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates. Whenever possible, the Partnership and its Consolidated Investment Funds use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Investment Funds develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

The Partnership has established policies, as described above, processes and procedures to ensure that valuation methodologies for investments and financial instruments that are categorized within all levels of the fair value hierarchy are fair and consistent. A Pricing Committee has been established to provide oversight of the valuation policies, processes and procedures, and is comprised of various personnel from the Partnership. The Pricing Committee meets monthly to review the proposed valuations for investments and financial instruments. The Pricing Committee is responsible for establishing the valuation policies and evaluating the overall fairness and consistent application of those policies.

As of December 31, 2014, the Partnership and its consolidated entities' investments consisted primarily of common equity securities, asset-backed securities, limited partnership interests, life settlement contracts, floating rate syndicated bank loans, preferred equity, LLC interests, right and warrants, closed-end mutual funds, options contracts, and corporate bonds. In addition, the consolidated entities engage in short sale transactions. The majority of these financial instruments are not listed on national securities exchanges, and management is required to use significant judgment to estimate their values.

Equity Investments

Publicly traded equities are valued at the closing price at the date of the financial statements. The fair value of equity investments that are not traded on national exchanges or through real-time quotation services are derived from methodologies that provide appropriate fair value estimates. Equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. The Consolidated Investment Funds also holds a number of private equity investments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Consolidated Investment Funds will fair value the assets using

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Consolidated Investment Funds determine comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publicly available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Consolidated Investment Funds to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances.

Debt Securities

The Consolidated Funds invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Consolidated Funds first seek to obtain reliable market quotes from other parties dealing in the specific asset. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Loans and bonds that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Absent both a reliable market quote and third-party pricing service date, the Consolidated Funds may use various models to establish an estimated exit price. These investments are classified as Level 3 assets. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Asset-Backed Securities

The Consolidated Funds invest in a variety of asset-backed securities. Asset-backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Funds generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Funds evaluate the results based on visible market activity and market research. When appropriate, the Consolidated Funds may apply other techniques based on a specific asset's characteristics. Asset-backed securities with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Asset-backed securities that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Private Equity Investments

The Consolidated Funds hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Consolidated Funds will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publically available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances. Private equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Private equity investments that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

The Consolidated Investment Funds also invest in warrant securities of publicly-traded companies. The fair value of these investments is based on an option pricing model. The option model bases warrant value on a number of factors including underlying equity price as of the valuation date, strike price, exercise date, time to expiration and volatility. Warrant investments that have observable volatility are classified as Level 2 assets. Warrant investments where volatility inputs are not observable are valued using an estimated volatility input, and are classified as Level 3 assets.

Life Settlement Contracts

Life Settlement contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. Management generally utilizes an independent third party firm to perform these calculations and provide the relevant inputs. Management evaluates the results based on visible market activity and market research. Since these inputs are not readily observable, these contracts are classified as Level 3 assets.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

At December 31, 2014, the Consolidated Investment Funds' investments in life settlement contracts consisted of the following:

(U.S. dollars in thousands, except number of policies)

Remaining Life Expectancy (in years)	Number of Policies	Face Value	Fair Value
1-2	1	\$ 5,000	\$ 2,956
2-3	3	13,250	4,426
3-4	11	68,500	14,452
4-5	9	51,250	15,024
Thereafter	96	971,998	77,782
Total	120	\$ 1,109,998	\$ 114,640

Limited Partnership Interests

The Partnership and its Consolidated Funds hold limited partnership interests in various entities. These assets are valued as the net asset value of the limited partnership interests because the entities utilize fair value accounting for their own financial statements. These interests are classified as Level 3 assets.

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Investment Fund's investments and derivatives at December 31, 2014 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2014:

(in thousands)

Assets	Level 1	Level 2	Level 3	Total Fair Value at 12/31/14
Common equity securities	\$ 516,162	\$ 290,748	\$ 220,466	\$ 1,027,376
Limited partnership interests	-	-	205,900	205,900
Asset-backed securities	-	172,757	9,297	182,054
Preferred equity	95,170	19,370	6,960	121,500
Floating rate syndicated bank loans	-	5,102	111,850	116,952
Life settlement contracts	-	-	114,640	114,640
Closed-end mutual funds	68,433	-	-	68,433
LLC interests	-	8,827	22,551	31,378
Rights & warrants	515	-	5,962	6,477
Corporate bonds	-	2,469	77	2,546
Options	83	-	-	83
Total	\$ 680,363	\$ 499,273	\$ 697,703	\$ 1,877,339
Liabilities				
Common stock & Options sold short	\$ 41,815	\$ -	-	\$ 41,815

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement. The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2014:

(in thousands)

	Total Fair Value at December 31, 2013	Purchases	Sales and Maturities	Transfers Into Level 3	Transfers Out of Level 3	Net Realized Losses	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2014
Common equity securities	\$ 190,391	\$ 7,883	\$ (3,457)	\$ 1,869	\$ (82)	\$ (3,378)	\$ 27,240	\$ 220,466
Limited partnership interests	169,797	1,609	(779)	-	-	(116)	35,389	205,900
Life settlement contracts	100,521	39,671	(10,000)	-	-	4,715	(20,267)	114,640
Floating rate syndicated bank loans	128,357	12,435	(10,800)	-	-	(143,080)	124,938	111,850
LLC interests	32,597	599	(1,487)	3,249	-	2,136	(14,543)	22,551
Asset-backed securities	19,903	6,462	(14,815)	-	(1)	(1,839)	(413)	9,297
Preferred equity	19,392	-	(14,837)	-	(100)	9,768	(7,263)	6,960
Rights & w warrants	9,763	-	(1,476)	-	-	23	(2,348)	5,962
Corporate bonds	5,838	400	-	255	(5,837)	-	(579)	77
	\$ 676,559	\$ 69,059	\$ (57,651)	\$ 5,373	\$ (6,020)	\$ (131,771)	\$ 142,154	\$ 697,703

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to changes in observable pricing inputs as compared to the prior year. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2014.

All net realized and unrealized gains and losses in the tables above are reflected in the accompanying Consolidated Income Statement. Approximately \$26.5 million of the net unrealized gains presented in the table above relate to investments held as of December 31, 2014.

Transfers out of Level 3 are recognized at the beginning of the period. The transfers out of Level 3 at December 31, 2014 were due to increases in market activity (e.g. frequency of trades) or the availability of a market clearing broker quote.

The following page includes a summary of significant unobservable inputs used in the fair valuations of assets and liabilities categorized within Level 3 of the fair value hierarchy.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

(Ending balance in thousands)

Category	Ending Balance at 12/31/2014	Valuation Technique	Unobservable Inputs	Input Value(s)
Asset-backed securities	\$ 9,297	Third-party pricing vendor	N/A	N/A
		Net Asset Value of Underlying Assets and Liabilities	Various models including liquidation analysis, and third-party pricing vendor	N/A
		Debt-yield	Credit Specific Risk Liquidity	5% 1%
Common equity securities	220,466	Multiples analysis	Multiple of EBITDA	2.5x - 11.5x
			Multiple of Revenue	.45x - .55x
			Liquidity discount	15% - 30%
			Credit Specific Discount	30%
		Third-party pricing vendor	N/A	N/A
		DCF	Discount Rate	11.5% - 19%
			Terminal Multiple	3.0x - 9.0x
		Black-Scholes Option Model	Holding Period	.58 Yrs
			Volatility	30%
Floating rate syndicated bank loans	111,850	Liquidation	N/A	N/A
			N/A	N/A
		Previous Transaction	N/A	N/A
			N/A	N/A
		Third-party pricing vendor	N/A	N/A
			N/A	N/A
		Appraisal	N/A	N/A
			N/A	N/A
		N/A	N/A	N/A
Limited partnership investments	205,900	Third-party appraisal	N/A	N/A
		Net Asset Value of Underlying Assets and Liabilities	Various models including liquidation analysis, and third-party pricing vendor	N/A
		N/A	N/A	N/A
Preferred equity	6,960	Recent Transaction	N/A	N/A
		Black Scholes	Holding Period	.58 Yrs
			Volatility	30%
		Probability Weighted Scenarios	Scenario Probabilities	Equal Weights
Life Settlement Contracts	114,640	Net Asset Value of Underlying Assets	Discount rate	18.0% - 27.5%
LLC interests	22,551	DCF	Discount rate	50%
			PW Profile of Reserve Categories	PW-8 - PW-30
		Net Asset Value of Underlying Assets and Liabilities	Various models including liquidation analysis, and third-party pricing vendor	N/A
		Appraisal	N/A	N/A
		Third-party pricing vendor	N/A	N/A
Corporate bonds	77	Liquidation	Discount Rate	50%
		Adjusted Appraisal	Liquidity discount	30%
Rights & Warrants	5,962	DCF	Discount Rate	14%
		Liquidation	Discount Rate	14%
Total	\$ 697,703			

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

6. Derivative Financial Instruments

Total Return Swaps

A total return swap is a two-party contract under which the parties agree to exchange returns from a predetermined portfolio of investments. The gross returns to be exchanged or swapped between the parties are calculated based on a notional amount, which is reviewed periodically to determine each party's obligation under the contract.

The Partnership entered into an agreement during 2012 in which it sold its rights to five quarters of variable net senior and subordinated fee receipts from certain collateralized loan obligations managed by the Partnership for fixed monthly payments from a counter-party. In doing so, the Partnership monetized rights to potential future payments for the certainty and predictability of a fixed schedule of receipts. On December 20, 2013 the counter-party exercised its option to purchase an additional four quarters of variable net senior and subordinated fee receipts. For the year ended December 31, 2014, the Partnership recorded a realized loss of \$3.2 million.

7. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its Consolidated Investment Funds' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The consolidated entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the consolidated entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Investment Funds due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Investment Fund's exposure to market risk is affected by a number of macroeconomic factors, such as interest rates, availability of credit, inflation rates, economic uncertainty and changes in laws and regulations. These factors may affect the level and volatility of securities prices and the liquidity of the Partnership and its Consolidated Investment Funds investments. Volatility or illiquidity could impair the Partnership and its Consolidated Investment Funds performance or result in losses. The Partnership and its Consolidated Investment Funds may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets. The performance of life settlement contracts may be adversely impacted by the under estimation of mortality and other rates.

Credit Risk

Credit risk is the potential loss the Partnership and its consolidated entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the consolidated entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the consolidated entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Liquidity Risk

The Consolidated Investment Fund's limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Investment Funds nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the consolidated investment funds. The Consolidated Investment Funds could be materially affected by the liquidity, credit and other events of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Investment Funds' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Investment Funds' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

When the Partnership and its Consolidated Investment Funds' purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Investment Funds have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Investment Funds may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Investment Funds invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Investment Funds' investments. However, the Consolidated Investment Funds' portfolios could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Investment Funds. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Investment Funds to losses that are disproportionate to market movements as a whole.

At December 31, 2014, the Consolidated Investment Funds' investments were predominantly concentrated in the United States.

Custody Risk

The clearing operations for the Partnership and its Consolidated Investment Funds are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Investment Funds' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Investment Funds may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Investment Funds' might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Investment Funds may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Investment Funds' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Investment Funds. If the value of the Consolidated Investment Funds' securities fall below the margin level required by a counterparty, additional margin deposits would be required. If the Consolidated Investment Funds are unable to satisfy a margin call, the counterparty could liquidate the Consolidated Investment Funds' positions in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Investment Funds to incur significant losses. In addition, to the extent the Consolidated Investment Funds have posted excess collateral for margin transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Investment Funds' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Investment Funds. In addition, because the use of leverage allows the Consolidated Investment Funds to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Investment Funds may lose in the event of adverse price movements is high in relation to the amount of their investment.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

In the event of a sudden drop in the value of the Consolidated Investment Funds' assets, the Consolidated Investment Funds may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Investment Funds may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Investment Funds have the ability to apply discretionary margin, haircut, and financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Investment Funds may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2014, the Consolidated Investment Funds' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that certain Consolidated Investment Funds' are able to realize on the sale of its investments will directly affect the amounts that the investors in the feeder funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2014.

Litigation Risk

The Partnership and its Consolidated Investment Funds are periodically subject to legal actions arising from the ordinary course of business. The ultimate outcome of these cases is inherently uncertain and could result in additional losses to the Partnership and/or its Consolidated Investment Funds. Refer to Note 12 for a discussion of open litigation.

8. Related Party Transactions

In the normal course of business, the Partnership and the Consolidated Investment Funds may conduct trades with affiliates. Such trades are transacted at fair value as determined, in good faith, using third party information where available. During the period ended December 31, 2014, the Partnership and the Consolidated Investment Funds purchased various securities for approximately \$11.2 million from various affiliated entities and a non-discretionary, advised account.

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2014, approximately \$3.2 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in Other Assets in the accompanying Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Accounts Held with Related Party

During the year the Partnership and its subsidiaries maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2014, balances in the accounts were approximately \$60.8 million, a portion of which exceeds Federal deposit insurance limits.

Investments Under Common Control

Certain members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. As of December 31, 2014, the Partnership and its subsidiaries held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 9,856
American Home Patient	Common Equity	1,856
American Home Patient	Term Loan	13,172
Blackwell BMC, LLC	Common Equity	12,737
Canopy Timberlands, L.P.	Limited Partnership Interest	80,164
Canopy Timberlands Spout Springs, L.P.	Limited Partnership Interest	26,003
Carey International, Inc	Term Loan	26,169
Carey Holdings, Inc.	Class A Common Stock	235
CCS Medical, Inc.	Loan	5,055
CCS Medical, Inc.	Common Equity	18
Cornerstone Healthcare Group Holding, Inc.	Common Equity	97,407
Euramax International Holdings B.V.	Common	9,643
Euramax International Holdings B.V.	Term Loan	27,361
Ginn LA Resorts Holdings, LLC	Term Loan	410
Ginn LA Conduit Lender, Inc.	First Lien Tranche A Credit-Linked Deposit	142
Ginn LA Conduit Lender, Inc.	First Lien Tranche B Term Loan	354
Highland Capital Healthcare Partners, L.P.	Limited Partnership Interest	3,973
Highland Long/Short Equity Fund	Mutual Fund	268
Highland Long/Short Healthcare Fund	Mutual Fund	10,740
Highland Park CDO 2006-1A	Asset backed debt	1,394
JHT Holdings Inc.	Term Loan	19,879
JHT Holdings Inc.	Revolving Term Loan	3,174
JHT Holdings Inc.	Common Stock	6,372
Las Vegas Land Holding	LLC Units	48
Metro-Goldwyn-Mayer, Inc.	Common Stock	302,784
NexPoint Credit Strategies Fund	Closed-End Mutual Fund	37,899
Nex-Tech Aerospace Holdings, Inc.	Common Equity	2,183
Romacorp Restaurant Holdings, Inc.	Common Equity	200
Terrestar	Common Equity	59,585
Trussway Industries, Inc.	Common Equity	22,671
Turtle Bay Holdings, LLC	Equity Units	5,029

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Certain investments are issued and managed by affiliates of the Partnership. These investments are subject to the same valuation policies and procedures as similar investments within the same level of the fair value hierarchy. As of December 31, 2014, the Partnership and the Consolidated Investment Funds held the following investments that were issued and managed by affiliates of the Partnership:

(in thousands)

Issuer	Type of Investment	Fair Value
ACIS 2013-2A	Asset backed debt	\$ 30,150
ACIS 2013-2A	Asset backed equity	51,800
ACIS 2014-5A	Asset backed debt	57,805
BB Highland Floating Rate Fund I	Floating rate equity	4,914
BB Votorantim Highland Infrastructure LLC	Common equity	1,539
Gleneagles CLO, Ltd.	Asset backed equity	4,800
Greenbriar CLO, Ltd.	Asset backed equity	18,238
Highland Capital Healthcare Fund	Limited Partnership interest	2,974
Highland Energy MLP Fund	Mutual fund shares	2,796
Highland Floating Rate Opportunities Fund	Mutual fund shares	708
Highland Global Allocation Fund	Closed-end mutual fund shares	2,165
Highland Opportunistic Credit Fund	Mutual fund shares	5,187
Highland Park CDO, Ltd.	Asset backed debt tranche	33
Highland Multi Strategy Fund	Limited Partnership interest	23,715
Highland Long/Short Equity Fund	Mutual fund shares	268
Highland Long/Short Healthcare Fund	Mutual fund shares	10,740
NexPoint Credit Strategies Fund	Closed-end mutual fund shares	15,269
Rockwall CDO, Ltd.	Asset backed debt	2,340
Southfork CLO, Ltd.	Asset backed equity	4,455
Valhalla CLO, Ltd.	Asset backed debt	1,760

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$10.8 million. At December 31, 2014, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$105.0 million and \$85.9 million, respectively.

Affiliated Transactions

Effective February 26, 2014, the Partnership issued a promissory note to HCMFA in the amount of \$4.0 million. The note accrues interest at a rate of 1.97%, the mid-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2014 total interest and principal due on the promissory note was approximately \$4.1 million.

Effective August 27, 2014, the Partnership issued a promissory note to HCMFA in the amount of \$2.1 million. The note accrues interest at a rate of 3.09%, the long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2014 total interest and principal due on the promissory note was approximately \$2.1 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

During the year ended December 31, 2014, the Partnership issued promissory notes to NexPoint in the aggregate amount of \$12.7 million. The notes accrue interest at a rate of 6.0%. As of December 31, 2014 total interest and principal due on the promissory notes was approximately \$13.0 million.

During the year ended December 31, 2014, the Partnership issued promissory notes to HCRE Partners, LLC, ("HCRE") in the aggregate amount of \$10.0 million. The notes accrue interest at a rate of 9.0%. As of December 31, 2014 total interest and principal due on the promissory notes was approximately \$9.8 million.

During the year ended December 31, 2014, The Partnership issued promissory notes to Highland Capital Management Services, Inc. ("HCMSI") in the aggregate amount of \$8.5 million. The notes accrue interest at an average rate of 3.12%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2014 total interest and principal due on the promissory notes was approximately \$8.6 million.

Services Performed by or on Behalf of an Affiliate

In March 2007, Highland Capital of New York, Inc. a New York, corporation, ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2014, total marketing fee expense charged to the Partnership by Highland New York was approximately \$4.0 million and as of December 31, 2014, amounts owed to Highland New York for services rendered was approximately \$2.5 million.

Effective December 15, 2011, the Partnership commenced performing services on behalf of Highland Capital Management Fund Advisors, L.P. ("HCMFA"), a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to HCMFA was approximately \$2.0 million and as of December 31, 2014, amounts owed to the Partnership by HCMFA for services rendered were approximately \$0.2 million.

Effective July 29, 2010, the Partnership commenced performing services on behalf of Falcon E&P Opportunities GP, LLC. ("Falcon"), a Delaware limited liability company and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to Falcon was approximately \$0.6 million and as of December 31, 2014, amounts owed to the Partnership by Falcon for services rendered were approximately \$0.4 million.

Effective January 1, 2011, the Partnership commenced performing services on behalf of Acis Capital Management, L.P. ("Acis"), a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to Acis was approximately \$3.8 million and as of December 31, 2014, no amounts were owed to the Partnership by Acis for services rendered.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Effective January 1, 2013, the Partnership commenced performing services on behalf of NexPoint Advisors, L.P. ("NexPoint"), a Delaware limited partnership. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to NexPoint was approximately \$1.4 million and as of December 31, 2014, amounts owed to the Partnership by NexPoint for services rendered were approximately \$0.8 million.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank Capital, Inc. ("NexBank Capital"), financial services company. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to NexBank Capital was approximately \$0.4 million and as of December 31, 2014, amounts owed to the Partnership by NexBank Capital for services rendered were approximately \$0.1 million.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank SSB, ("NexBank"), a Texas savings bank. Services include investment advisory services. The Partnership charges a fee for the services performed. For the year ended December 31, 2014, the total fee charged by the Partnership to NexBank was approximately \$0.7 million and as of December 31, 2014, no amounts were owed to the Partnership by NexBank for services rendered.

9. Debt and Notes Payable

Promissory Note

On December 31, 2014, the Partnership entered in to a promissory note (the "Promissory Note") with an investor in the amount of \$18.6 million, in exchange for 100% of its LP interest in Highland Multi Strategy Credit Fund, L.P. The Partnership must pay one-third of the initial note amount, plus accumulated interest on each of the first three anniversaries of the note. The Promissory Note will mature on December 31, 2017. The Promissory Note accrues interest at a rate of 3% per annum.

Select Master Securities Loan Agreement

On October 14, 2014, Highland Select Equity Master Fund, L.P. received a master securities loan agreement (the "Securities Agreement") from The Dugaboy Investment Trust ("Dugaboy") in the amount of \$23.0 million for securities borrowed. The Securities Agreement accrues a Loan Fee at a rate of 0.38%, the short term Applicable Federal Rate. The fair value of the loan will fluctuate with the fair value of the borrowed securities, throughout the term of the Securities Agreement.

10. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, consolidated statement of income, or its liquidity. See Note 13.

Operating Leases

The Partnership has an operating lease and associated commitments related to its main office space. Future minimum lease payments under operating lease commitments with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31,

2015	1,477
2016	1,506
2017	1,521
2018	1,521
2019	1,550
Thereafter	3,655
Total	<u>\$ 11,230</u>

Total rental expense of the Partnership and its consolidated entities for operating leases was approximately \$1.4 million for the year ended December 31, 2014.

11. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. A new amendment became effective on January 1, 2011 in which a named participant was admitted to the plan and is eligible to earn benefit accrual. 2011 expense reflects a service cost charge for the value of the new participant's benefit earned during 2011.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2014 are reconciled in the tables below.

(in thousands)

Change in projected benefit obligation	2014
Benefit obligation at beginning of year	\$ 2,339
Service cost	5
Interest cost	108
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	59
Acquisition/(divestiture)	-
Benefits paid	(261)
Benefit obligation at end of year	\$ 2,250
Change in plan assets	2014
Fair value of plan assets at beginning of year	\$ 2,635
Actual return on plan assets	72
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(261)
Other increase/(decrease)	-
Fair value of plan assets at year end	\$ 2,446
Reconciliation of Funded Status	2014
Accumulated benefit obligation at end of year	\$ 2,250
Projected benefit obligation at end of year	2,250
Fair value of assets at end of year	2,446
Funded status at end of year	\$ 196

The Partnership does not expect to contribute to the plan during 2014.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2014:

Discount rate	3.70%
Rate of compensation increase	N/A

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2014:

Discount rate	4.90%
Expected long-term return on plan assets	4.90%
Rate of compensation increase	N/A

As of December 31, 2014, there were no plan assets categorized as Level 3.

12. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2014, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014.

Crusader Master

Crusader Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Crusader Master. Crusader Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Crusader Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Crusader Master's net taxable income.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Since Crusader Master trades investments for its own account, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The General Partner intends to conduct Crusader Master's business in such a way that it does not constitute a U.S. trade or business or create a taxable presence in any of the jurisdictions in which the Investment Manager has offices, including the United Kingdom.

Dividends as well as certain interest and other income received by Crusader Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Crusader Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2014, a withholding tax liability of \$0.2 million is included in the accrued expenses in the Consolidated Balance Sheet.

It is management's responsibility to determine whether a tax position of Crusader Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. In accordance with this authoritative guidance, management has established a reserve for federal income tax of approximately \$7.8 million for uncertain tax positions. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014.

Crusader Master files tax returns as prescribed the tax laws of the jurisdictions in which it operates. In the normal course of business, Crusader Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2014, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

Multi Strategy Credit Master

For U.S. income tax purposes, Multi Strategy Credit Master is treated as a pass-through entity, which means it is not subject to federal income taxes under current Internal Revenue Service guidelines. However, each investor may be individually liable for income taxes, if any, on its share of the partnership's net taxable income.

Multi Strategy Credit Master trades in senior secured syndicated bank loans for its own account and, as such, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The Partnership intends to conduct Multi Strategy Credit Master's business in such a manner that it does not constitute a U.S. trade or business, nor does it create a taxable presence in any of the jurisdictions in which the Partnership has offices, including the United Kingdom.

Dividends as well as certain interest and other income received by Multi Strategy Credit Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Multi Strategy Credit Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2014, a withholding tax liability of \$1.0 million is classified within accrued expenses and withholding tax payable on the Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Multi Strategy Credit Master applies authoritative guidance which requires management to determine whether a tax position of Multi Strategy Credit Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As of December 31, 2014, a liability to account for uncertain tax positions of \$0.1 million is classified within accrued expenses within the Consolidated Balance Sheet. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014.

Multi Strategy Credit Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Multi Strategy Credit Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2014, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

Credit Strategies Master

Credit Strategies Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Credit Strategies Master. Credit Strategies Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 28, 2016.

For U.S. income tax purposes, Credit Strategies Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Credit Strategies Master's net taxable income.

It is management's responsibility to determine whether a tax position of Credit Strategies Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner has determined that there was no effect on the financial statements from the application of this guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014.

Dividends as well as certain interest and other income received by Credit Strategies Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Credit Strategies Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2014, a withholding tax liability of \$0.7 million is included in tax payable in the Consolidated Balance Sheet. Deferred tax liabilities may result from temporary differences related to the unrealized appreciation on Credit Strategies Master's investments that will become taxable income in future years. Deferred tax liabilities will become payable upon realization of the gains when the investments are sold, and are measured using the applicable enacted tax rate and provisions of the enacted tax law.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

The Credit Strategies Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Strategies Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2014, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

A wholly owned corporation at Credit Strategies Master may be subject to Federal U.S. Income Tax based on the nature of income, expense, and capital gains/losses. As of December 31, 2014, the wholly owned corporation has a tax refund receivable of \$1.7 million included in other assets in the Consolidated Balance Sheet.

Restoration Onshore

Restoration Onshore is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of the Restoration Onshore's net taxable income. Interest, dividends and other income realized by Restoration Onshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Onshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Onshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority.

The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014. Restoration Onshore files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2014, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

Restoration Offshore

Restoration Offshore is a Cayman Islands exempted company. Under the current laws of the Cayman Islands, there is no income, estate, transfer, sales or other tax payable by Restoration Offshore. Restoration Offshore has elected to be treated as a corporation for U.S. tax purposes and files a protective 1120-F.

The General Partner intends to conduct the business of Restoration Offshore in such a way that Restoration Offshore's activities do not constitute a U.S. trade or business and any income or realized gains earned by Restoration Offshore do not become "effectively connected" with a trade or business carried on in the United States for U.S. federal income tax purposes.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Dividends as well as certain interest and other income received by the master partnership of Restoration Offshore from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by the master partnership of Restoration Offshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Offshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Offshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2014. As of December 31, 2014, the tax years that remain subject to examination by major tax jurisdictions under the statute of limitations is from the year 2011 forward (with limited exceptions).

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

13. Legal Proceedings

On July 15, 2008, Crusader Master, Highland Offshore Partners, CDO Master Fund, Multi Strategy Credit Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida ("the Touse action"). The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. The US Supreme Court case was heard on January 14, 2015, and the Parties are waiting the decision. Based on the ruling, Crusader Master and Highland Offshore Partners recorded a combined reserve of approximately \$12.3 million as of December 31, 2014, which represents its ratable share of the judgment.

On July 8, 2009, one investor filed suit against Highland Credit Strategies Fund, LP, the Partnership, and other affiliated entities (collectively, the "Defendants"). The lawsuit alleges that the Defendants misrepresented the amount of redemptions in Credit Strategies Master. The Defendants intend to vigorously defend against the lawsuit. Accordingly, Highland Credit Strategies Fund, LP has recorded a reserve of approximately \$11.3 million, which is recorded in the Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

On January 31, 2011, one investor filed suit against Highland Credit Strategies Fund, LP, the Partnership, and other affiliated entities (collectively, the "Defendants"). The lawsuit alleges that the Defendants made misrepresentations and omissions relating to the level of the amount of redemptions in Credit Strategies Master. Effective March 28, 2014, Credit Strategies settled the ongoing litigation for \$1.5 million. Cash was paid on April 11, 2014 and an Agreed Order of Dismissal was filed seven days later dismissing all claims asserted or that could have been asserted in the lawsuit against the Fund. The settlement resulted in a gain of \$1.0 million for the year ended December 31, 2014, and is recognized as a reduction to legal expense on the Consolidated financial statements.

In April 2007, CDO Master Fund entered into a risk sharing agreement with UBS Securities LLC and UBS AG, London Branch (collectively, "UBS" or "UBS Plaintiffs") structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Special Opportunities Holding Company ("SOHC"). The warehouse was financed by UBS and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, UBS agreed to extend it for one year on March 15, 2008. Due to liquidity constraints, CDO Master Fund was unable to meet a November margin call, and UBS elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by UBS and sold on the open market through bid-wanted-in competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, UBS notified CDO Master Fund that its pro-rata share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount.

On February 24, 2009, the UBS Plaintiffs filed a lawsuit against CDO Master Fund, SOHC and the Partnership in the New York State Supreme Court of Manhattan alleging that they suffered losses in excess of \$745 million due to the depreciation in value of the warehouse collateral. On February 19, 2010, the First Appellate Division sided with the Partnership and dismissed UBS' claims against the Partnership. Thereafter on June 22, 2010, the UBS Plaintiffs filed an amended complaint with the Court against the Partnership alleging \$687 million in damages. On March 13, 2012, the First Appellate Division dismissed two of the four claims against the Partnership, and severely limited the scope of the two remaining claims.

In the June 22, 2010 amended complaint, the UBS Plaintiffs also asserted claims against Highland Credit Strategies Fund, LP, Highland Multi Strategy Credit Fund, LP, Crusader Master, and certain of their affiliates (collectively, the "Additional Fund Defendants"). The UBS Plaintiffs seek to unwind alleged fraudulent transfers involving the Additional Fund Defendants. Although the UBS Plaintiffs have not pled a specific damages amount against the Additional Fund Defendants, any eventual damages award would be subject to pre-judgment interest of 9% (accrued as of December 3, 2008) as well as post-judgment interest of 9% (accrued as of the date a judgment, if any, is entered against the Additional Fund Defendants). Each of the Additional Fund Defendants filed a separate motion to dismiss, each of which was denied. In addition, the Additional Fund Defendants filed a motion for summary judgment, which was heard by the Court on February 14, 2014. On March 11, 2014, the First Appellate Division heard each of the Additional Fund Defendants' respective appeals of the Court's denials of their respective motions to dismiss.

Discovery is completed, but the matter is stayed pending the outcome of the interlocutory appeals. A trial date has not yet been set. Though the Defendants continue to vigorously defend against the UBS Plaintiffs' claims, at this time, the General Partners are unable to provide a reasonably probable estimate of the expected outcome.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

On July 16, 2013, Credit Suisse Securities (USA), LLC ("Credit Suisse") filed suit against the Highland Credit Strategies Fund, LP, Highland Multi Strategy Credit Fund, LP, and other affiliates (the "Credit Suisse Defendants"). Credit Suisse's claims relate to several outstanding trades of debt tranches of Goldfield Ranch Reality Holdings, LLC and Westgate Investments, LLC. On May 5, 2014, Credit Suisse moved for summary judgment on both the principal amount and statutory pre-judgment interest. The Court granted the motion on August 6, 2014, and issued judgment on September 11, 2014 in the amount of \$25.5 million in principal, plus \$13.5 million in interest, for a total of \$39.0 million. The Funds have previously reserved for the principal amount, and now has reserved for the interest amount. Interest continues to accrue based on the New York statutory rate. As of December 31, 2014, an additional \$1.2 million in interest has been accrued, for a total of \$14.7 million. The full amount of interest and principal is recognized on the consolidated financial statements. The Funds will appeal the application of a statutory pre-judgment interest rate as opposed to the contract rate of interest.

In April 2012, the Partnership filed suit against a former employee for breach of contract, defamation and theft of trade secrets. The former employee filed a counterclaim with numerous, unrelated allegations. The partnership refuted each allegation in detail. The former employee seeks unspecified damages against the Partnership and certain affiliates. On February 6, 2014, the jury found the former employee breached his fiduciary duty to the Partnership. The jury found that neither the Partnership nor any of its employees had breached any duty, and awarded \$2.8 million to the Partnership. The jury also found that the Partnership's consolidated entity Highland Employee Retention Assets, LLC ("HERA") owed \$2.6 million related to an employee retention plan. The court entered judgment on the verdict on July 11, 2014. The former employee has filed his appeal against the Partnership and HERA has filed its appeal against the judgment amount.

14. Fund Wind Down

On February 4, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent and that it was in the best interest of the fund to liquidate the fund's remaining assets. The proceeds from the asset liquidations will be distributed to the remaining financing counterparties and other senior and trade creditors as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

During 2008, Crusader Master and Credit Strategies Master were negatively affected by deteriorating conditions in the overall economy and credit markets. These conditions became more severe during the third and fourth quarters of 2008 and generated significant losses on various derivative transactions and repurchase agreements to which Crusader Master and Credit Strategies Master were parties. In addition, certain assets that Crusader Master and Credit Strategies Master purchased on margin through prime brokerage agreements experienced a significant decline in value. In certain cases, Crusader Master and Credit Strategies Master were unable to post the collateral required to secure these losses, and the counterparties provided notice of their intent to terminate the agreements. As a result, access to the credit that Crusader Master and Credit Strategies Master used to manage its investing and financing activities became highly constrained, and in some cases unavailable. In light of these circumstances, the General Partners (the general partner of Highland Crusader Fund, L.P. and the general partner of Highland Credit Strategies Fund, L.P.) and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. concluded, in consultation with the Investment Manager, that it would be in the best interests of their investors to wind down the investment portfolios of Credit Strategies Master and Crusader Master. On October 15, 2008, the Investment Manager notified investors that it would begin the wind-down process. The Investment Manager also restricted subscriptions and the payment of withdrawals to its feeder funds effective the same date.

In connection with the wind down, the limited partner interests of the Feeder Funds of Credit Strategies and Crusader were compulsorily withdrawn/redeemed on October 15, 2008 and November 15, 2008, respectively, in accordance with the terms of the governing documents.

Crusader Master

On July 15, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement (the "Scheme") that facilitates the winding-down of the investments of Crusader Master and the distribution of its assets. A substantial majority of the investors in its feeder funds consented to the plan of distribution as outlined in the Scheme. The Scheme became effective as of August 1, 2011 (the "Effective Date").

The Scheme establishes two classes of claims; those feeder fund investors who had timely submitted withdrawal/redemption requests for withdrawal/redemption dates that fell on or before June 30, 2008 and who had not received full payment ("Prior Redeemers"), and those feeder fund investors that had not timely submitted such withdrawal/redemption requests for redemption/withdrawal dates that fell on or before June 30, 2008 ("Compulsory Redeemers") (together "Redeemers"). The basis for ratable distribution amongst both classes of Redeemers was the November 15, 2008 balances of said Redeemers ("Redemption Amount"), adjusted to add back any redemption penalties assessed against Prior Redeemers during 2008. A realization schedule for distributions is set forth in Appendix A of the Scheme (the "Realization Schedule"). The terms of the Scheme are outlined as follows:

1. Prior Redeemers shall be entitled to 60% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Prior Redeemers' Distribution"). Each Prior Redeemer shall be entitled to their pro rata share of the Crusader Fund Prior Redeemers' Distribution based on the Prior Redeemer's Redemption Amount relative to the total of all Prior Redeemers' Redemption Amounts (inclusive of all feeders).

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

2. Compulsory Redeemers shall be entitled to 40% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Compulsory Redeemers' Distribution"). With the exception of the non-consenting Compulsory Redeemers discussed below, each Compulsory Redeemer shall be entitled to their pro rata share of the Crusader Fund Compulsory Redeemers' Distribution based on the Compulsory Redeemer's Redemption Amount relative to the total of all Compulsory Redeemers' Redemption Amounts (inclusive of all feeders).

In the event the Investment Manager fails to make distributions in accordance with the Realization Schedule for two consecutive quarters without receiving a waiver from the committee of Redeemers appointed to help oversee the Scheme (the "Redeemer Committee"), the Investment Manager can be removed for cause as the Investment Manager of the Master Partnership by the Redeemer Committee.

Crusader Redeemer Trust Account

Effective July 15, 2011, a trust account was set-up and funded for the benefit of Compulsory Redeemers who had consented to the Scheme and Prior Redeemers (the "Redeemer Trust Account"). The portion of amounts in excess of the Redemption Amounts otherwise attributable to non-consenting Compulsory Redeemers was contributed to the Redeemer Trust Account and not distributed to non-consenting Compulsory Redeemers. Amounts in the Redeemer Trust Account are reserved and used to pay all costs of Crusader Master to defend, respond to, settle and satisfy any claims by Redeemers other than for their Scheme claim.

The non-consenting Compulsory Redeemers do not receive any allocation of profit and loss; the portion of profit and loss that would otherwise be allocated to their accounts is instead allocated to the Redeemer Trust Account. The Redeemer Trust Account is accounted for as a component of equity in the Crusader Onshore Feeder Fund. Within the earlier of 30 days after all redeemer claims have been resolved or dismissed with prejudice or the sixth anniversary of the effective date, any amounts remaining in the Redeemer Trust Account shall be distributed 100% to consenting Compulsory Redeemers pro rata based on their relative Redemption Amounts.

Crusader Deferred Fee Account

In accordance with the Scheme, the "Deferred Fee Account" was established on the Effective Date by allocating the right for owners of existing deferred fees to potentially receive payment in respect of deferred fees equal to \$10 million.

In the event that Crusader Master makes aggregate distributions of at least \$1.7 billion prior to the forty-third month following the effective date, the Partnership shall be entitled to receive payment in respect of the Deferred Fee Account.

In the event that the Master Partnership does not make aggregate distributions of at least \$1.7 billion prior to the forty-third month following the effective date, then the Partnership will cause the Feeder Funds to distribute the right to receive payment 100% to consenting Compulsory Redeemers (pro rata based on their relative Redemption Amounts). The Deferred Fee Account will continue to be allocated its pro rata portion of profit and loss.

Crusader Wind Down Progress

Crusader Master distributed approximately \$205.3 million to the Feeder Funds in accordance with the Scheme for the year ended December 31, 2014. Since the Scheme's effective date, approximately \$1,351.2 million has either been distributed to the Feeder Funds for purposes of disbursement, or withheld and specially allocated for tax payments.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

As of December 31, 2014, the estimated value of the partners' capital of Crusader Master was approximately \$457.3 million. The actual amounts that will be distributed upon completion of the wind down process are inherently uncertain and may differ materially from the partners' capital as of December 31, 2014. Capital will be distributed as it becomes available in accordance with the Scheme.

Credit Strategies Master

To facilitate the winding-down of the investments in Credit Strategies Master, a Plan of Distribution (the "Plan") was also adopted by Credit Strategies Master and its feeder funds and was consented to by a substantial majority of the investors in its feeder funds. On April 14, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement (the "Scheme") that incorporates the terms of the Plan so as to be binding upon Highland Credit Strategies Fund, Ltd. and its investors. The Scheme became effective on May 1, 2011. The Plan established two classes of claims; those investors of the Feeder Funds whose withdrawals/redemptions became effective on or before September 30, 2008 and who have not received full payment of their redemption amount ("Prior Redeemers") and those investors of the feeder funds who were compulsorily withdrawn/redeemed on October 15, 2008 ("Compulsory Redeemers").

As investments in Credit Strategies Master are realized, distributions will be made in the following order, which summarizes the terms outlined in the Plan:

1. Payments for fund expenses
2. The first \$30 million available for distribution ratably to Prior Redeemers
3. The next approximately \$5.3 million available for distribution ratably to consenting Compulsory Redeemers and a trust account established for the benefit of non-consenting Compulsory Redeemers ("Redeemer Trust Account")
4. All remaining funds will be distributed as follows:
 - a. 85% ratably to Prior Redeemers
 - b. 15% to consenting Compulsory Redeemers and the Redeemer Trust Account

This method of distribution results in a shift of capital from the Prior Redeemers to the consenting Compulsory Redeemers and the Redeemer Trust Account. It also created a shift of capital from its offshore feeder to its onshore feeder, since there was a greater proportion of Compulsory Redeemers to Prior Redeemers in the onshore feeder than in the offshore feeder.

Credit Strategies Redeemer Trust Account

The Redeemer Trust Account is used to pay for litigation costs involving the non-consenting Compulsory Redeemers. The Plan outlines which expenses related to litigation ("Covered Claims") will be paid using funds from the Redeemer Trust Account, and any litigation will continue to be assessed under an ASC 450 (Contingencies) model. Any remaining funds in the Redeemer Trust Account that are not used for expenses related to Covered Claims by the "Trust Account Final Distribution Date" (defined as 30 days after all Covered Claims have been resolved, or the sixth anniversary of the effective date, whichever is earlier) will be distributed to consenting Compulsory Redeemers.

The Redeemer Trust Account is treated as a component of equity. It is allocated its share of profit and loss and existing capital as outlined above, and any expenses related to Covered Claims will decrease the account in the period in which the expenses are incurred.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2014

Credit Strategies Contribution Trust Account

In accordance with the Plan and in exchange for certain releases, a trust account (the "Contribution Trust Account") was established and initially funded on the effective date with \$3.0 million contributed by the Partnership. The Partnership also paid an additional \$6.0 million on April 25, 2014, approximately the third anniversary of the effective date of the Plan. This \$6.0 million was recognized as a subscription into Credit Strategies Master during the year ended December 31, 2014.

The Contribution Trust Account will be used to pay for expenses related to Covered Claims to the extent that the Redeemer Trust Account is insufficient to pay such expenses. Within 30 days after all Covered Claims have been resolved or dismissed with prejudice, or the sixth anniversary of the effective date, provided that no suits asserting Covered Claims are then pending, whichever is earlier, any remaining balance in the Contribution Trust Account will be distributed 85% to consenting Compulsory Redeemers and 15% to consenting Prior Redeemers.

Similar to the Redeemer Trust Account, the Contribution Trust Account is treated as a separate component of equity. Additionally, the initial payment of the \$3.0 million was treated as a contribution to the Master Partnership. However, the Contribution Trust Account does not receive an allocation of profit and loss. The only changes to the account will occur when contributions are made or expenses related to Covered Claims are paid.

15. Subsequent Events.

On January 26, 2015, the Partnership issued a promissory note to HCRE in the amount of \$1.5 million. The note accrues interest at a rate of 9.0%.

On January 29, 2015, the Partnership issued a promissory note to NexPoint in the amount of \$3.1 million. The note accrues interest at a rate of 6.0%.

The Partnership has performed an evaluation of subsequent events through May 21, 2015, which is the date the consolidated financial statements were available to be issued, and has determined that there are no other material subsequent events that would require disclosure in the Partnership's consolidated financial statements.

Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Balance Sheet
December 31, 2014

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Assets				
Cash and cash equivalents	\$ 1,813	\$ 64,220	\$ -	\$ 66,033
Restricted cash	2,621	135,234	-	137,855
Investments at fair value	185,260	1,692,079	-	1,877,339
Equity method investees	338,778	-	(338,778)	-
Management and incentive fees receivable	8,662	-	(92)	8,570
Due from brokers	-	32,536	-	32,536
Other assets	55,435	10,459	(1,451)	64,443
Deferred incentive fees receivable	32,592	-	-	32,592
Fixed assets and leasehold improvements, net of accumulated depreciation of \$5,768	8,067	-	-	8,067
Total assets	\$ 633,228	\$ 1,934,528	\$ (340,321)	\$ 2,227,435
Liabilities and partners' capital				
Liabilities				
Accounts payable	\$ 5,144	\$ 23	\$ -	\$ 5,167
Securities sold, not yet purchased (proceeds \$43,015)	-	41,815	-	41,815
Withdrawals payable	-	82,833	-	82,833
Due to brokers	47,215	692,925	(657)	739,483
Due to brokers for securities purchased, not yet settled	-	67,541	-	67,541
Accrued and other liabilities	35,108	66,316	(886)	100,538
Debt and notes payable	18,648	22,991	-	41,639
Total liabilities	106,115	974,444	(1,543)	1,079,016
Non-controlling interest	-	621,306	-	621,306
Commitments (Note 10)				
Partners' capital	527,113	338,778	(338,778)	527,113
Total liabilities and partners' capital	\$ 633,228	\$ 1,934,528	\$ (340,321)	\$ 2,227,435

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Statement of Income
Year Ended December 31, 2014

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Revenue:				
Management fees	\$ 67,570	\$ -	\$ -	\$ 67,570
Interest and investment income	1,847	55,604	-	57,451
Other income	9,180	1,310	-	10,490
Total revenue	78,597	56,914	-	135,511
Expenses:				
Compensation and benefits	37,027	666	-	37,693
Professional fees	7,192	16,743	-	23,935
Marketing and advertising expense	6,140	-	-	6,140
Investment and research consulting	507	-	-	507
Depreciation and amortization	1,358	-	-	1,358
Tax expense	-	1,892	-	1,892
Bad debt expense	3,303	-	(3,303)	-
Other operating expenses	7,229	6,733	3,303	17,265
Total expenses	62,756	26,034	-	88,790
Other expense	1,655	-	-	1,655
Income before investment and derivative activities	17,496	30,880	-	48,376
Realized and unrealized gain from investment and derivative transactions:				
Net realized loss on investment and derivative transactions	(2,441)	(169,561)	-	(172,002)
Net change in unrealized gain on investment and derivative transactions	41,961	218,390	-	260,351
Total realized and unrealized gain from investment and derivative transactions	39,520	48,829	-	88,349
Net unrealized earnings from equity method investees	88,313	-	(88,313)	-
Net income	145,329	79,709	(88,313)	136,725
Net loss attributable to the non-controlling interest	-	8,604	-	8,604
Net income attributable to Highland Capital Management, L.P.	\$ 145,329	\$ 88,313	\$ (88,313)	\$ 145,329

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2014

(in thousands)

Assets

Current assets:

Cash and cash equivalents	\$	1,813
Restricted cash		2,621
Investments at fair value (cost \$173,856)*		286,010
Equity method investees		238,028
Management and incentive fees receivable		8,662
Other assets		55,435
Deferred incentive fees receivable		32,592
Fixed assets and leasehold improvements, net of accumulated depreciation of \$5,768		8,067

Total assets	\$	633,228
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Liabilities and partners' capital

Liabilities

Accounts payable	\$	5,144
Due to brokers		47,215
Accrued and other liabilities		35,108
Notes payable		18,648
Total liabilities		106,115

Partners' capital		527,113
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Total liabilities and partners' capital	\$	633,228
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*Investments, at fair value includes \$100.8 million of limited partnership interest ownership of Consolidated Non-Variable Interest Entities, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2014 consolidated financial Statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
Year Ended December 31, 2014

(in thousands)

Revenue:

Management fees	\$ 67,570
Interest and investment income	1,847
Shared services fees and miscellaneous income	9,180
Total revenue	<u>78,597</u>

Operating expenses:

Compensation and benefits	37,027
Professional fees	7,192
Marketing and advertising expense	6,140
Investment and research consulting	507
Depreciation and amortization	1,358
Bad debt expense	3,303
Other operating expenses	<u>7,229</u>
Total operating expenses	62,756

Other income	1,655
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Income before investment activities	<u>17,496</u>
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Realized and unrealized gains/losses from investments:

Net realized loss on sale of investments	(2,441)
Net change in unrealized gain on investments*	<u>46,709</u>
Total realized and unrealized gain from investments	44,268

Earnings from equity method investees:	83,565
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Net income	<u>\$ 145,329</u>
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*Net change in unrealized gain on investments includes \$4.8 million of unrealized gains from holdings of limited partnership interests of Consolidated Non-Variable Interest entities, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2014 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

EXHIBIT 70

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

**Consolidated Financial Statements and
Supplemental Information
December 31, 2015**

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Index
December 31, 2015

	Page(s)
Independent Auditor's Report	1
Audited Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Changes in Partners' Capital.....	4
Consolidated Statement of Cash Flows.....	5
Consolidated Notes to Financial Statements	6-47
Supplemental Information.....	48-52



Independent Auditor's Report

To the General Partner of Highland Capital Management, L.P.

We have audited the accompanying consolidated financial statements of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership"), which comprise the consolidated balance sheet as of December 31, 2015, and the related consolidated statements of income, of changes in partners' capital and of cash flows for the year then ended.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on the consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Partnership's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Partnership's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Highland Capital Management, L.P. and its subsidiaries as of December 31, 2015, and the results of their operations and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The Supplemental Consolidating Balance Sheet, the Supplemental Consolidating Statement of Income, the Supplemental Unconsolidated Balance Sheet and the Supplemental Unconsolidated Statement of Income are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. The information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves and other additional procedures, in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the consolidated financial statements taken as a whole.

PricewaterhouseCoopers LLP

May 19, 2016

PricewaterhouseCoopers LLP, 2001 Ross Avenue, Suite 1800, Dallas, Texas 75201
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Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2015

(in thousands)

Assets

Cash and cash equivalents	\$	45,580
Restricted cash		74,935
Investments at fair value (cost \$2,166,029)		1,562,553
Management and incentive fees receivable		7,542
Due from broker for securities sold, not yet settled		8,607
Other assets		16,363
Deferred incentive fees receivable		31,214
Due from affiliates		63,031
Note receivable		63,000
Fixed assets and leasehold improvements, net of accumulated depreciation of \$7,683		47,710

Total assets	\$	1,920,535
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Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,667
Securities sold, not yet purchased (proceeds \$195,298)		198,605
Withdrawals payable		78,733
Due to brokers		485,246
Due to brokers for securities purchased, not yet settled		55,934
Accrued and other liabilities		89,681
Debt and notes payable		104,659

Total liabilities		1,017,525
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Non-controlling interest		517,353
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Commitments

Partners' capital		385,657
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Total liabilities and partners' capital	\$	1,920,535
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The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
Consolidated Statement of Income
Year Ended December 31, 2015

(in thousands)

Revenue:

Management fees	\$	54,644
Interest and investment income		56,113
Other income		17,626
		<hr/>
Total revenue		128,383
		<hr/>

Expenses:

Legal settlement		55,000
Compensation and benefits		36,936
Professional fees		35,779
Marketing and advertising expense		7,452
Investment and research consulting		967
Depreciation and amortization		2,744
Tax expense		875
Other operating expenses		23,254
		<hr/>

Total expenses		163,007
		<hr/>

Other income		4,869
		<hr/>

Loss before investment and derivative activities		(29,755)
		<hr/>

Realized and unrealized loss from investment and derivative transactions:

Net realized loss on investment and derivative transactions		(52,005)
Net change in unrealized loss on investment and derivative transactions		(199,485)
		<hr/>
Total realized and unrealized loss from investment and derivative transactions		(251,490)
		<hr/>

Net loss		(281,245)
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Net loss attributable to the non-controlling interest		104,780
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Net loss attributable to Highland Capital Management, L.P.	\$	(176,465)
		<hr/>

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2015

(in thousands)

	General Partner	Limited Partners	Total
Partners' capital, December 31, 2014	\$ -	\$ 527,113	\$ 527,113
Net loss attributable to Highland Capital Management, L.P.	-	(176,465)	(176,465)
Partner contributions	-	70,000	70,000
Partner distributions	-	(34,991)	(34,991)
Partners' capital, December 31, 2015	\$ -	\$ 385,657	\$ 385,657

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2015

(in thousands)

Cash flows from operating activities:

Net loss	\$ (281,245)
Adjustment to reconcile net loss to net cash used in operating activities:	
Net realized loss on investments and derivative transactions	52,005
Net change in unrealized loss on investments and derivative transactions	199,485
Amortization and depreciation	2,744
Changes in assets and liabilities:	
Restricted cash	62,920
Management and incentive fee receivable	1,028
Deferred incentive fees	1,378
Other assets	3,515
Accounts payable	(499)
Accrued and other liabilities	(10,975)
Due from brokers	33,145
Due from affiliate	7,037
Due to brokers for securities purchased, not yet settled	(13,057)
Due to brokers	(254,237)
Net cash used in operating activities	<u>(196,756)</u>

Cash flows from investing activities:

Purchases of fixed assets and leasehold improvements, net	(42,387)
Purchases of investments	(281,350)
Proceeds from dispositions of investments	353,688
Proceeds from securities sold, not yet purchased	260,033
Issuance of notes receivable to affiliates	(25,500)
Purchases of investments to cover securities sold, not yet purchased	(99,737)
Net cash provided by investing activities	<u>164,747</u>

Cash flows from financing activities:

Payments on long-term debt	(7,347)
Proceeds from long-term debt	58,419
Capital contributions from minority interest investors of consolidated entities	500
Capital withdrawals by minority interest investors of consolidated entities	(7,798)
Partner contributions	7,000
Capital withdrawals by investors	(4,227)
Partner distributions	(34,991)
Net cash provided by financing activities	<u>11,556</u>

Net decrease in cash and cash equivalents (20,453)

Cash and cash equivalents

Beginning of year	66,033
End of year	<u>\$ 45,580</u>

Supplemental disclosure of cash flow informaton:

Interest paid during the year	\$ (4,330)
Taxes paid during the year	(492)
Investments received in-kind	33,833
Investments distributed in-kind	(9,690)

The accompanying notes are an integral part of these consolidated statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment adviser under the Investment Advisers Act of 1940 that manages collateralized loan obligations ("CLOs"), hedge funds, private equity funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is owned by an unaffiliated trust as well as affiliated trusts and personal holdings of the senior management of the Partnership.

As of December 31, 2015, the Partnership provided investment advisory services for twenty-nine CLOs, seven separate accounts, one registered investment company, one master limited partnership, and sixteen hedge fund or private equity structures, with total fee-earning assets under management of approximately \$9.5 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs' expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIEs (along with majority owned funds: Highland Diversified Credit Fund, L.P., Highland Capital Healthcare Partners Master, LP, Highland Select Equity Fund, L.P., Highland Equity Partners, L.P., Highland Merger Arbitrage Fund, L.P., and Highland Equity Focus Fund, L.P., collectively the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Crusader Offshore Partners, L.P. ("Crusader Master"), a Bermuda exempted limited partnership that commenced operations on July 10, 2000;
- Highland CDO Opportunity Master Fund, L.P. ("CDO Master Fund"), a Bermuda limited partnership that commenced operations on November 9, 2005;
- Highland Credit Strategies Master Fund, L.P. ("Credit Strategies Master"), a Bermuda exempted limited partnership that commenced operations on August 24, 2005;
- Highland Multi Strategy Credit Fund, L.P. ("Multi Strategy Master"), formerly Highland Credit Opportunities CDO, L.P., a Delaware limited partnership that commenced operations on December 29, 2005 and changed its name on August 26, 2014;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Canopy Timberlands, L.P., a Delaware limited partnership that commenced operations on April 29, 2008;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore"), a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore"), a Delaware limited partnership that commenced operations on September 2, 2008;
- BB Votorantim, Highland Infrastructure LLC ("BB Votorantim"), a Delaware limited liability company which began operations on May 29, 2014; and

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in HFP GP, LLC, a Delaware limited liability company that commenced operations on January 20, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

- 100% interest in Highland Capital Management (Singapore) Pte, Ltd, a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 100% interest in Highland Capital Management Korea, Ltd., a company organized in the Republic of Korea that commenced operations on August 2, 2012;
- 100% interest in HE Capital, LLC., a Delaware limited liability company that was formed on March 22, 2007;
- 100% interest in De Kooning, Ltd, a Cayman company that was formed on December 1, 2012;
- 100% interest in Hirst, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Hockney, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Oldenburg, Ltd., a Cayman company that was formed on December 1, 2012;
- 99.9% interest in Penant Management, LP., a Delaware limited partnership that was formed on December 12, 2012;
- 100% interest in Semence, LLC, a Delaware limited liability company that was formed on December 16, 2013;
- 100% interest in SK Shareholder Services, LLC, a Delaware limited liability company that was formed on October 24, 2013;
- 100% interest in Pollack, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Warhol, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in HCREf-I Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREf-X Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREf-XI Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREf-XII Holding Corp., a Delaware company that was formed on December 13, 2012;
- 80% interest in Highland Employee Retention Assets ("HERA"), LLC, a Delaware limited liability company that was formed on October 26th, 2009;
- 100% interest in Highland Diversified Credit Fund, LP ("Highland Offshore Partners"), a Delaware limited partnership which began operations on February 29, 2000 and was organized for the sole purpose of investing substantially all of its assets in Highland Offshore Partners, L.P.;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

- 99.6% interest in Highland Select Equity Fund, LP, a Delaware limited partnership which began operations on January 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value
- 100% interest in Highland Equity Partners, LP, a Delaware limited partnership which began operations on August 1, 2013 and was organized for the purpose of investing with long-term perspective in a concentrated portfolio of stocks;
- 99.6% interest in Highland Equity Focus Fund, LP, a Delaware limited partnership which began operations on September 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value;
- 50.87% interest in Highland Capital Healthcare Partners Master, LP ("Healthcare Master"), a Cayman limited partnership which began operations on February 1, 2011 and was organized for the purpose of achieving appreciation of its assets through the investment and trading of securities, primarily by investing with a long-term perspective in a concentrated portfolio of stocks primarily in the healthcare industry;
- 100% interest in HCM Holdco, LLC, a Delaware limited liability company formed on October 27th, 2015;
- 100% interest in Heimskringla, LLC, a Nevada limited liability company formed on November 9th, 2015;
- 100% interest in Highland Merger Arbitrage Fund, LP, a Delaware limited partnership which began operations on October 16, 2014; and
- 95% interest in Estates on Maryland Holdco, LLC ("Estates on Maryland"), a Delaware limited liability company which began operations on July 24, 2015 and was organized for the purpose of owning, operating and managing real estate

All inter-partnership and intercompany accounts and transactions involving the above listed consolidated entities ("Consolidated Entities") have been eliminated in all of the aforementioned consolidating schedules. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Due to the deconsolidation of certain investment funds, some prior year balances referenced within the following notes to the consolidated financial statements may not tie to prior year issued financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

The following table includes a rollforward of noncontrolling interests from December 31, 2014, to December 31, 2015.

(in thousands)

Noncontrolling interest, December 31, 2014	<u>\$ 621,306</u>
Net loss attributable to noncontrolling interest	(104,780)
Noncontrolling partner contributions	500
Noncontrolling partner distributions	(7,798)
Noncontrolling interest of newly consolidated entities	8,125
Noncontrolling interest, December 31, 2015	<u>\$ 517,353</u>

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

See Note 5 for the Partnership's fair value process and hierarchy disclosures.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2015, the Partnership and its Consolidated Entities recognized management fees of approximately \$54.6 million. The Partnership recognized approximately \$0.1 million of depreciation on incentive fees earned prior to 2008, previously deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the Consolidated Statement of Income.

Shared Services Revenue

The Partnership recognizes revenue as earned in connection with services provided to related parties under various shared services agreements. Under these agreements, the Partnership earns fees for services including, but not limited to, back office support functions, marketing, and investment advisory services. During the year ended December 31, 2015, the Partnership and its Consolidated Entities recognized shared services revenue of approximately \$12.4 million, which has been presented in *Other Income* in the Consolidated Statement of Income. See further discussion in Note 8.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Income and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums associated with purchases of investments are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis over the life of the investment. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. See further discussion in Note 14.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Cash equivalents are carried at cost, which approximates market value. At December 31, 2015, the Partnership and Consolidated Entities held cash balances at certain financial institutions in excess of the federally insured limit of \$0.3 million. The Partnership and Consolidated Entities regularly monitor the credit quality of these institutions.

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash on the Consolidated Balance Sheet.

Notes Receivable

Notes receivable consists of secured promissory notes with maturities greater than one year. When available, the Partnership uses observable market data, including pricing on recent closed transactions to value notes. When appropriate, these notes may be valued using collateral values. Adjustments to the value may be performed in circumstances where attributes specific to the collateral exist suggesting impairment.

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Partnership's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand.

Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender. A gain (which cannot exceed the price at which the Consolidated Investment Funds sold the security short) or a loss (which theoretically could be unlimited in size) will be settled upon termination of a short sale.

Options Contracts

The Partnership and the Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership or the Consolidated Entities purchase (write) an option, an amount equal to the premium paid (received) by the entity is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the Partnership or the Consolidated Entities enter into a closing transaction), the entity realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership or the Consolidated Entities purchasing a security at a price different from the current market value.

The Partnership and the Consolidated Entities are exposed to counterparty risk from the potential that a seller of an option contract does not sell or purchase the underlying asset as agreed under the terms of the option contract. The maximum risk of loss from counterparty risk to the Partnership and the Consolidated Entities is the greater of the fair value of its open option contracts or the premiums paid to purchase the open option contracts. The Partnership and the Consolidated Entities consider the credit risk of the intermediary counterparties to its option transactions in evaluating potential credit risk.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Margin Transactions

To obtain more investable cash, the Consolidated Entities may use various forms of leverage including purchasing securities on margin. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2015. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. At December 31, 2015, the Consolidated Investment Funds had withdrawals payable of \$78.7 million.

Foreign Currency Transactions

The Partnership's subsidiary HCM Singapore uses Singapore dollars as their functional currency. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2015. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the Consolidated Statement of Income.

The Consolidated Entities do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments* on the Consolidated Statement of Income.

Life Settlement Contracts

One of the Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of *Purchase of investments* and *Proceeds from dispositions of investments* on the Consolidated Statement of Cash Flows.

Financing

The Partnership and its Consolidated Entities may finance the acquisition of its investments in securities and loans through financing arrangements. The Partnership and its Consolidated Entities recognize interest expense on all borrowings on the accrual basis in the Consolidated Statement of Income.

Financial Instruments

The Partnership and its Consolidated Entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable and accrued liabilities approximate their fair values because of their short maturities.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Recently Issued Accounting Standards and Interpretations

In February 2015, the FASB issued ASU 2015-02 "ASC Topic 810, Consolidation." ASU 2015-02 modifies the evaluation of whether limited partnerships and similar legal entities are variable interest entities or voting interest entities, eliminates the presumption that a general partner should consolidate a limited partnership, affects the consolidation analysis of reporting entities that are involved with VIEs, and provides other updates on guidance regarding consolidation. ASU 2015-02 is effective for fiscal years beginning after December 15, 2016. Management is evaluating the impact of ASU 2015-02 on the Partnership's financial statements.

3. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2015:

(in thousands)

Land	\$	5,080
Leasehold improvements		7,192
Buildings		36,890
Building improvements		580
Furniture and fixtures		3,035
Computer and equipment		2,338
Computer software		278
Accumulated depreciation		(7,683)
	\$	<u>47,710</u>

The Partnership and its Consolidated Entities are depreciating fixed assets as follows:

	<u>Period</u>
Land	Not depreciated
Leasehold improvements	Lease term
Buildings	29 - 40 years
Building improvements	15 years
Furniture and fixtures	7 years
Computer and equipment	3 - 5 years
Computer software	3 years

Depreciation expense in 2015 totaled approximately \$1.9 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

4. Investments

Detailed below is a summary of the Partnership and its Consolidated Entities' investments at December 31, 2015:

(in thousands)

	Amortized Cost/Cost	Fair Value
Common equity securities	\$ 708,716	\$ 762,119
Limited partnership interests	149,460	197,154
Asset-backed securities	231,177	151,777
Life settlement contracts	437,942	147,973
Floating rate syndicated bank loans	216,938	113,785
Preferred equity	17,278	84,843
LLC interests	132,257	33,739
Closed-end mutual funds	2,329	49,500
Options contracts	15,034	9,058
Rights & warrants	50,740	8,642
Corporate bonds	203,932	3,737
American depositary receipts	226	226
Total investments	<u>\$ 2,166,029</u>	<u>\$ 1,562,553</u>
	Proceeds	Fair Value
Securities sold, not yet purchased	<u>\$ (195,298)</u>	<u>\$ (198,605)</u>

5. Fair Value of Financial Instruments

Fair Value Measurement

U.S. GAAP defines fair value as the price an entity would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants as of the measurement date. The standard requires fair value measurement techniques to reflect the assumptions market participants would use in pricing an asset or liability and, where possible, to maximize the use of observable inputs and minimize the use of unobservable inputs. It also establishes the following hierarchy that prioritizes the valuation inputs into three broad levels:

- Level 1 – Valuation based on unadjusted quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Entities have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active that are reflective of recent market transactions; or (c) models in which all significant inputs are observable, either directly or indirectly.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Entities use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being reclassified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates. Whenever possible, the Partnership and its Consolidated Entities use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Entities develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

The Partnership has established policies, as described above, processes and procedures to ensure that valuation methodologies for investments and financial instruments that are categorized within all levels of the fair value hierarchy are fair and consistent. A Pricing Committee has been established to provide oversight of the valuation policies, processes and procedures, and is comprised of various personnel from the Partnership. The Pricing Committee meets monthly to review the proposed valuations for investments and financial instruments. The Pricing Committee is responsible for establishing the valuation policies and evaluating the overall fairness and consistent application of those policies.

As of December 31, 2015, the Partnership and its Consolidated Entities' investments consisted primarily of common equity securities, limited partnership interests, asset-backed securities, life settlement contracts, floating rate syndicated bank loans, preferred equity, LLC interests, closed-end mutual funds, option contracts, rights and warrants, corporate bonds, and American depository receipts. In addition, the Consolidated Entities engage in short sale transactions. The majority of these financial instruments are not listed on national securities exchanges and management is required to use significant judgment to estimate their values.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Equity Investments

Publicly traded equities are valued at the closing price at the date of the financial statements. The fair value of equity investments that are not traded on national exchanges or through real-time quotation services are derived from methodologies that provide appropriate fair value estimates. Equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. The Consolidated Entities also holds a number of private equity investments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Consolidated Entities will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Consolidated Entities determine comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publicly available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Consolidated Entities to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances.

Debt Securities

The Partnership and Consolidated Entities invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Partnership and Consolidated Entities first seek to obtain reliable market quotes from other parties dealing in the specific asset. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Loans and bonds that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Absent both a reliable market quote and third-party pricing service date, the Partnership and Consolidated Entities may use various models to establish an estimated exit price. These investments are classified as Level 3 assets. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Asset-Backed Securities

The Consolidated Entities invest in a variety of asset-backed securities. Asset-backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Entities generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Entities evaluate the results based on visible

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

market activity and market research. When appropriate, the Consolidated Entities may apply other techniques based on a specific asset's characteristics. Asset-backed securities with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Asset-backed securities that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Private Equity Investments

The Partnership and Consolidated Entities hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Partnership and Consolidated Entities will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publicly available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances. Private equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Private equity investments that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

The Consolidated Entities also invest in warrant securities of publicly-traded companies. The fair value of these investments is based on an option pricing model. The option model bases warrant value on a number of factors including underlying equity price as of the valuation date, strike price, exercise date, time to expiration and volatility. Warrant investments that have observable volatility are classified as Level 2 assets. Warrant investments where volatility inputs are not observable are valued using an estimated volatility input, and are classified as Level 3 assets.

Life Settlement Contracts

Life Settlement contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. Management generally utilizes an independent third party firm to perform these calculations and provide the relevant inputs. Management evaluates the results based on visible market activity and market research. Since these inputs are not readily observable, these contracts are classified as Level 3 assets.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

At December 31, 2015, the Consolidated Entities' investments in life settlement contracts consisted of the following:

(U.S. dollars in thousands, except number of policies)

Remaining Life Expectancy (in years)	Number of Policies	Face Value	Fair Value
2-3	6	\$ 30,000	\$ 12,617
3-4	4	25,750	10,790
4-5	10	62,000	16,854
Thereafter	94	963,918	107,712
Total	114	\$ 1,081,668	\$ 147,973

Limited Partnership Interests

The Partnership and its Consolidated Entities hold limited partnership interests in various entities. These assets are valued as the net asset value of the limited partnership interests because the entities utilize fair value accounting for their own financial statements. These interests are classified as Level 3 assets.

Options Contracts

The Partnership and its Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership and its Consolidated Entities purchase (writes) an option, an amount equal to the premium paid (received) by the purchaser is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the purchaser enters into a closing transaction), the purchaser realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership and its Consolidated Entities purchasing a security at a price different from the current market value.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Entities investments and derivatives at December 31, 2015 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2015:

(in thousands)

Assets	Level 1	Level 2	Level 3	Total Fair Value at 12/31/15
Common equity securities	\$ 273,431	\$ 292,688	\$ 196,002	\$ 762,121
Limited partnership interests	-	-	197,154	197,154
Asset-backed securities	-	144,167	7,610	151,777
Life settlement contracts	-	-	147,973	147,973
Floating rate syndicated bank loans	-	10,646	103,138	113,784
Preferred equity	60,433	20,004	4,405	84,842
LLC interests	-	5,794	27,945	33,739
Closed-end mutual funds	49,500	-	-	49,500
Options	9,058	-	-	9,058
Rights & warrants	198	579	7,865	8,642
Corporate bonds	363	3,374	-	3,737
American depository receipts	226	-	-	226
Total	\$ 393,209	\$ 477,252	\$ 692,092	\$ 1,562,553
Liabilities				
Common stock & Options sold short	\$ 198,605	\$ -	-	\$ 198,605

The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement. The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2015:

(in thousands)

	Total Fair Value at December 31, 2014	Purchases	Sales and Maturities	Transfers Into Level 3	Transfers Out of Level 3	Net Realized Gains / (Losses)	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2015
Common equity securities	\$ 220,466	\$ 2	\$ (17,125)	\$ 14,605	\$ (13,041)	\$ 7,161	\$ (16,066)	\$ 196,002
Limited partnership interests	205,900	1,043	(3,896)	-	(3,974)	129	(2,048)	197,154
Life settlement contracts	114,640	41,422	(32,149)	-	-	10,203	13,857	147,973
Floating rate syndicated bank loans	111,850	4,205	(7,381)	1,043	(7,256)	159	518	103,138
LLC interests	22,551	1,685	(80)	1,918	-	-	1,871	27,945
Rights & warrants	5,962	-	-	-	-	-	1,903	7,865
Asset-backed securities	9,227	-	(502)	16	-	-	(1,131)	7,610
Preferred equity	7,030	-	-	-	-	-	(2,625)	4,405
Corporate bonds	77	-	-	-	-	-	(77)	-
	\$ 697,703	\$ 48,357	\$ (61,133)	\$ 17,582	\$ (24,271)	\$ 17,652	\$ (3,798)	\$ 692,092

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to changes in observable pricing inputs as compared to the prior year. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2015.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

All net realized and unrealized gains and losses in the tables above are reflected in the accompanying Consolidated Income Statement. Approximately \$8.9 million of the net unrealized gains presented in the table above relate to investments held as of December 31, 2015.

Transfers out of Level 3 are recognized at the beginning of the period. The transfers out of Level 3 at December 31, 2015 were due to increases in market activity (e.g. frequency of trades) or the availability of a market clearing broker quote.

The following page includes a summary of significant unobservable inputs used in the fair valuations of assets and liabilities categorized within Level 3 of the fair value hierarchy.

(Ending balance in thousands)

Category	Ending Balance at 12/31/2015	Valuation Technique	Unobservable Inputs	Input Value(s)
Common equity securities	\$ 196,002	Multiples analysis	Multiple of EBITDA Price/MHz-PoP Liquidity Discount Discount for Lack of Marketability Credit Specific Discount	2.75x - 10.0x \$0.13 - \$0.50 25 - 30% 15 - 25% 20%
		Discounted Cash Flow	Discount Rate Terminal Multiple	8 - 16% 3.3x - 7.5x
		Black-Scholes Option Model	Holding Period Volatility	.75 - 2.67 Yrs 15 - 20%
		Transaction recovery analysis	N/A	N/A
Limited partnership investments	197,154	Appraisal	N/A	N/A
		Net Asset Value of Underlying Assets and Liabilities	Various models including liquidation analysis, and third-party pricing vendor	N/A
Life Settlement Contracts	147,973	Net Asset Value of Underlying Assets	Discount rate	17 - 24%
Bank loans	103,138	Multiples analysis	Multiple of EBITDA Multiple of Revenue	3.5x - 7.25x .4x - .5x
		Discounted Cash Flow	Discount rate Terminal Multiple Spread Adjustment	15 - 15.5% 3.75x - 6.5x 1.7 - 2.3%
		Transaction recovery analysis	Discount rate	11%
		Adjusted appraisal	Minority Discount	25%
		Third-party pricing vendor	N/A	N/A
LLC interests	27,945	Discounted Cash Flow	PW Profile of Reserve Categories	PV-8 - PV-20
		Adjusted appraisal	Minority Discount	25%
		Third-party pricing vendor	N/A	N/A
		Appraisal	N/A	N/A
Rights & Warrants	7,865	Multiples analysis	Multiple of EBITDA	8.0x - 10.0x
		Discounted Cash Flow	Discount Rate Terminal Multiple	12 - 14% 7.5x
Asset-backed securities	7,610	Third-party pricing vendor	N/A	N/A
		Look-through analysis of underlying assets	Various models including liquidation analysis	N/A
		Debt-yield	Credit Specific Risk Liquidity	5% 1%
Preferred equity	4,405	Recovery analysis	Scenario Probabilities	Various
Total	\$ 692,092			

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

6. Securities Sold under Agreements to Repurchase

Transactions involving securities sold under agreements to repurchase are treated as collateralized financial transactions, and are recorded at their fair market values. In addition, interest earned on the securities is included in interest receivable, and interest accrued on amounts borrowed is included in interest payable. For the year ended December 31, 2015, Multi Strategy Master expensed approximately \$0.7 million for interest charged on the amounts borrowed for repurchase agreements.

In connection with transactions in agreements to repurchase, it is Multi Strategy Master's policy that its counterparty take possession of the underlying collateral securities, the fair value of which exceeds the principal amount of the agreements to repurchase, including accrued interest, at all times. If the counterparty defaults under agreements to resell, and the fair value of the collateral declines, the realization of the collateral by Multi Strategy Master may be delayed or limited.

To reduce counterparty credit risk with respect to repurchase agreements, Multi Strategy Master has entered into a master repurchase agreement, which allows Multi Strategy Master to make (or to have an entitlement to receive) a single net payment in the event of default (close-out netting) for outstanding payables and receivables with respect to repurchase agreements with the counterparty.

The master repurchase agreement includes credit related contingent features which allow the counterparty to terminate the agreement prior to maturity in the event Multi Strategy Master's net assets decline by a stated percentage or Multi Strategy Master fails to meet the terms of the agreement, which would cause the Master Partnership to accelerate payment of any net liability owed to the counterparty.

For financial reporting purposes, Multi Strategy Master does not offset repurchase agreement assets and liabilities that are subject to netting arrangements in the Consolidated Balance Sheet. Bankruptcy or insolvency laws of a particular jurisdiction may impose restrictions on or prohibitions against the right of offset in bankruptcy, insolvency or other events.

Collateral terms are contract specific for repurchase agreements. For repurchase agreements traded under master repurchase agreements, the collateral requirements are typically calculated by netting the mark to market amount for each transaction under such agreement and comparing that to the value of any collateral currently pledged by Multi Strategy Master or the counterparty.

For financial reporting purposes, cash collateral that has been pledged to cover obligations of Multi Strategy Master, if any, is reported in due to/from brokers on the Consolidated Balance Sheet. Generally, the amount of collateral due from or to a party must exceed a minimum transfer amount threshold before a transfer has to be made. To the extent amounts due to Multi Strategy Master from its counterparties are not fully collateralized, contractually or otherwise, Multi Strategy Master bears the risk of loss from counterparty non-performance.

At December 31, 2015, securities with a fair value of approximately \$61.2 million, which are included in investments in securities on the Consolidated Balance Sheet, were pledged to collateralize securities sold under agreements to repurchase.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

The following table presents, by counterparty, Multi Strategy Master's liabilities net of the related collateral pledged by Multi Strategy Master at December 31, 2015:

(U.S. dollars in thousands)

Counterparty	Description	Class of Related Collateral	Gross Value of Liability	Net Amount Due to Counterparty	Financial Instruments	Cash Collateral Pledged	Net Exposure After Collateral	Interest Rate	Maturity
Mizuho	Repurchase agreement	Asset-backed securities	\$ 10,147	\$ 10,147	\$ (10,147)	\$ -	\$ -	2.10%	10/14/2022
Mizuho	Repurchase agreement	Asset-backed securities	30,215	30,215	(30,215)	\$ -	\$ -	1.10%	11/1/2026
Mizuho	Repurchase agreement	Asset-backed securities	2,735	2,735	(2,735)	\$ -	\$ -	2.10%	5/1/2027
Mizuho	Repurchase agreement	Asset-backed securities	2,508	2,508	(2,508)	\$ -	\$ -	2.10%	11/1/2026
Jefferies LLC	Repurchase agreement	Asset-backed securities	2,148	2,148	(2,148)	\$ -	\$ -	2.74%	11/1/2026
			<u>\$ 47,753</u>	<u>\$ 47,753</u>	<u>\$ (47,753)</u>				

7. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its Consolidated Entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The Consolidated Entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the Consolidated Entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Entities due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Entities' exposure to market risk is affected by a number of macroeconomic factors, such as interest rates, availability of credit, inflation rates, economic uncertainty and changes in laws and regulations. These factors may affect the level and volatility of securities prices and the liquidity of the Partnership and its Consolidated Entities investments. Volatility or illiquidity could impair the Partnership and its Consolidated Entities performance or result in losses. The Partnership and its Consolidated Entities may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets. The performance of life settlement contracts may be adversely impacted by the under estimation of mortality and other rates.

Credit Risk

Credit risk is the potential loss the Partnership and its Consolidated Entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the Consolidated Entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the Consolidated Entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Liquidity Risk

The Consolidated Entities' limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Entities nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the Consolidated Entities. Consolidated Entities could be materially affected by the liquidity, credit and other events of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Entities' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Entities' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

When the Partnership and its Consolidated Entities purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Entities have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Entities may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

Debt Obligations

The Partnership and its Consolidated Entities' investment portfolio consists of collateralized loan obligations that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. Because of the inherent uncertainty of these investments, the Partnership's best estimates may differ significantly from values that would have been used had broader market for the investments existed.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Entities invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Entities' investments. However, the Consolidated Entities' portfolios could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Entities. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Entities to losses that are disproportionate to market movements as a whole.

At December 31, 2015, the Consolidated Entities' investments were predominantly concentrated in the United States and Cayman Islands.

Exit Difficulties

The Partnership and its Consolidated Entities cannot assure investors that it will be able to exit its investments by sale or other disposition at attractive prices, if at all. The mergers and acquisitions and public securities markets are highly cyclical, which means that the Consolidated Entities' investments, even its best performing investments, may be illiquid for extended periods of time despite the Consolidated Entities' efforts to identify attractive exit opportunities. Additionally, a significant portion of the Consolidated Entities' assets at any time will likely consist of debt obligations and other securities that are thinly-traded, for which no market exists and/or are restricted as to their transferability under applicable law and/or documents governing particular transactions of the Consolidated Entities. In some cases, the Consolidated Entities may be unable to realize an investment prior to the date on which the Consolidated Entities are scheduled to terminate and/or have to sell or otherwise dispose of one or more investments on disadvantageous terms as a result of the Consolidated Entities' termination, or distribute such investments in kind.

Custody Risk

The clearing operations for the Partnership and its Consolidated Entities are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Entities' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Entities may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Entities might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Leverage Risk

The Consolidated Entities may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Entities' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Entities. If the value of the Consolidated Entities' securities fall below the margin level required by a counterparty, additional margin deposits would be required. If the Consolidated Entities are unable to satisfy a margin call, the counterparty could liquidate the Consolidated Entities' positions in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Entities to incur significant losses. In addition, to the extent the Consolidated Entities have posted excess collateral for margin

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Entities' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Entities. In addition, because the use of leverage allows the Consolidated Entities to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Entities may lose in the event of adverse price movements is high in relation to the amount of their investment.

In the event of a sudden drop in the value of the Consolidated Entities' assets, the Consolidated Entities may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Entities may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Entities have the ability to apply discretionary margin, haircut, and financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2015, the Consolidated Entities' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Wind-Down Risk

The ultimate proceeds that certain Consolidated Entities are able to realize on the sale of its investments will directly affect the amounts that the investors in the feeder funds are able to redeem in connection with the wind down process. These amounts may differ materially from the partners' capital balances as of December 31, 2015.

Litigation Risk

The Partnership and its Consolidated Entities are periodically subject to legal actions arising from the ordinary course of business. The ultimate outcome of these cases is inherently uncertain and could result in additional losses to the Partnership and/or its Consolidated Entities. Refer to Note 15 for a discussion of open litigation.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

8. Related Party Transactions

Investments Under Common Control

Certain members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. As of December 31, 2015, the Partnership and its Consolidated Entities held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 6,928
American Home Patient	Common Equity	1,012
American Home Patient	Term Loan	13,463
Blackwell BMC, LLC	Common Equity	8,623
Canopy Timberlands, L.P.	Limited Partnership Interest	78,528
Canopy Timberlands Spout Springs, L.P.	Limited Partnership Interest	28,702
Carey International, Inc	Term Loan	10,160
Carey Holdings, Inc.	Common Stock	52
CCS Medical, Inc.	Loan	22,451
CCS Medical, Inc.	Common Equity	6
Cornerstone Healthcare Group Holding, Inc.	Common Equity	73,724
Euramax International Holdings B.V.	Warrants	887
Euramax International Holdings B.V.	Term Loan	31,768
Euramax International Holdings B.V.	Common Stock	2,803
Ginn LA Resorts Holdings, LLC	Term Loan	512
Ginn LA Conduit Lender, Inc.	First Lien Tranche A Credit-Linked Deposit	178
Ginn LA Conduit Lender, Inc.	First Lien Tranche B Term Loan	443
Highland Capital Healthcare Partners, L.P.	Limited Partnership Interest	3,680
Highland Long/Short Equity Fund	Mutual Fund	263
Highland Long/Short Healthcare Fund	Mutual Fund	2,843
Highland Park CDO 2006-1A	Asset Backed Debt	756
JHT Holdings Inc.	Term Loan	19,780
JHT Holdings Inc.	Revolving Term Loan	(25)
JHT Holdings Inc.	Common Stock	660
Las Vegas Land Holding	LLC Units	16
Metro-Goldwyn-Mayer, Inc.	Common Stock	312,691
NexPoint Credit Strategies Fund	Closed-End Mutual Fund	7,356
NexPoint Residential Trust, Inc.	Publicly-traded REIT	16,700
Nex-Tech Aerospace Holdings, Inc.	Common Equity	1,936
Romacorp Restaurant Holdings, Inc.	Common Equity	174
Terrestar	Common Equity	57,598
Trussway Industries, Inc.	Common Equity	16,425
Turtle Bay Holdings, LLC	Equity Units	8,655

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Certain investments are issued and managed by affiliates of the Partnership. These investments are subject to the same valuation policies and procedures as similar investments within the same level of the fair value hierarchy. As of December 31, 2015, the Partnership and the Consolidated Entities held the following investments that were issued and managed by affiliates of the Partnership:
(in thousands)

Issuer	Type of Investment	Fair Value
ACIS 2013-2A	Asset backed debt	\$ 28,100
ACIS 2013-2A	Asset backed equity	23,800
ACIS 2014-5A	Asset backed debt	41,342
ACIS 2015-6A	Asset backed equity	10,830
ACIS 2015-6A	Asset backed debt	4,180
BB Highland Floating Rate Fund I	Floating rate equity	4,596
BB Votorantim Highland Infrastructure LLC	Common equity	1,328
Greenbriar CLO, Ltd.	Asset backed equity	15,327
Highland Capital Healthcare Fund	Limited Partnership interest	3,680
Highland Energy MLP Fund	Mutual fund shares	1,871
Highland Floating Rate Opportunities Fund	Mutual fund shares	654
Highland Global Allocation Fund	Closed-end mutual fund shares	1,603
Highland Opportunistic Credit Fund	Mutual fund shares	3,802
Highland Park CDO, Ltd. - 1A	Asset backed debt tranche	33
Highland Park CDO, Ltd. - 1X	Asset backed equity	2,100
Highland Multi Strategy Fund	Limited Partnership interest	22,314
Highland Long/Short Equity Fund	Mutual fund shares	263
Highland Long/Short Healthcare Fund	Mutual fund shares	2,843
NexPoint Credit Strategies Fund	Closed-end mutual fund shares	7,356
PAMCO 1997 - 1A	Asset backed debt tranche	692
Rockwall Investors Corp.	Asset backed equity	1,880
Southfork CLO, Ltd.	Asset backed equity	7,496
Valhalla CLO, Ltd.	Asset backed debt	1,480
Westchester CLO, Ltd	Asset backed equity	4,125

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2015, approximately \$8.6 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in *Other Assets* in the accompanying Consolidated Balance Sheet.

Accounts Held with Related Party

During the year the Partnership and its Consolidated Entities maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2015, balances in the accounts were approximately \$53.0 million, a portion of which exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$10.9 million. At December 31, 2015, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$105.0 million and \$82.1 million, respectively.

Affiliated Transactions

During the years ended December 31, 2014, and December 31, 2015, Highland Capital Management Fund Advisors, L.P. ("HCMFA") issued promissory notes to the Partnership in the amount of \$6.0 million. The notes accrue interest at rates ranging from 1.97% - 2.82%, the mid-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2015 total interest and principal due on the promissory notes was approximately \$6.1 million and is payable on demand. The Partnership will not demand payment on amounts owed prior to May 31, 2017. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the years ended December 31, 2014, and December 31, 2015, NexPoint Advisors, L.P. ("NexPoint") issued promissory notes to the Partnership in the aggregate amount of \$15.8 million. A revolving note was established with NexPoint on July 22, 2015. This allowed for an initial advance on principal of \$1.3 million. As of December 31, 2015, the total principal outstanding on the revolving note was approximately \$4.0 million. Both the notes and revolving line of credit accrue interest at a rate of 6.0%. As of December 31, 2015 total interest and principal due on the promissory notes was approximately \$21.1 million and is payable on demand. The Partnership will not demand payment on amounts owed prior to May 31, 2017. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the years ended December 31, 2014, and December 31, 2015, HCRE Partners, LLC ("HCRE") issued promissory notes to the Partnership in the aggregate amount of \$13.0 million. The notes accrue interest at a rate of 8.0%. As of December 31, 2015 total interest and principal due on the promissory notes was approximately \$13.3 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the years ended December 31, 2014, and December 31, 2015, Highland Capital Management Services, Inc. ("HCMSI") issued promissory notes to the Partnership in the aggregate amount of \$23.0 million. The notes accrue interest at rates ranging from 2.60% - 3.12%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. During the years ended December 31, 2014, and December 31, 2015, HCMSI repaid \$8.1 million of principal. As of December 31, 2015 total interest and principal due on the promissory notes was approximately \$14.9 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

Services Performed by or on Behalf of an Affiliate

In March 2007, Highland Capital of New York, Inc. a New York corporation ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

year ended December 31, 2015, total marketing fee expense charged to the Partnership by Highland New York was approximately \$5.8 million and as of December 31, 2015, amounts owed to Highland New York for services rendered was approximately \$3.1 million.

Effective December 15, 2011, the Partnership commenced performing services on behalf of HCMFA, a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to HCMFA was approximately \$2.2 million and as of December 31, 2015, amounts owed to the Partnership by HCMFA for services rendered were approximately \$0.2 million.

Effective July 29, 2010, the Partnership commenced performing services on behalf of Falcon E&P Opportunities GP, LLC. ("Falcon"), a Delaware limited liability company and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to Falcon was approximately \$0.4 million and as of December 31, 2015, no amounts were owed to the Partnership by Falcon for services rendered.

Effective January 1, 2011, the Partnership commenced performing services on behalf of Acis Capital Management, L.P. ("Acis"), a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to Acis was approximately \$6.1 million and as of December 31, 2015, no amounts were owed to the Partnership by Acis for services rendered.

Effective January 1, 2013, the Partnership commenced performing services on behalf of NexPoint. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to NexPoint was approximately \$1.0 million and as of December 31, 2015, no amounts were owed to the Partnership by NexPoint for services rendered.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank Capital, Inc. ("NexBank Capital"), financial services company. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to NexBank Capital was approximately \$0.1 million and as of December 31, 2015, no amounts were owed to the Partnership by NexBank Capital for services rendered.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank SSB, ("NexBank"), a Texas savings bank. Services include investment advisory services. The Partnership charges a fee for the services performed. For the year ended December 31, 2015, the total fee charged by the Partnership to NexBank was approximately \$0.8 million and as of December 31, 2015, amounts owed to the Partnership by NexBank for services rendered were approximately \$0.2 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Effective April 1, 2015, the Partnership commenced performing services on behalf of NexPoint Real Estate Advisors, L.P. ("NREA"). Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. NREA is charged a fee for the services provided. For the year ended December 31, 2015, the total fee charged to NREA by the Partnership was approximately \$0.4 million and as of December 31, 2015, amounts owed by NREA to the Partnership for services rendered were approximately \$0.4 million.

On April 20, 2016, to be effective as of January 1, 2008 the Partnership commenced performing services on behalf of Markham Fine Jewelers, L.P. ("Markham"). Services include, but are not limited to management oversight and planning services, and operational support, in each case, on an ad hoc/as needed basis. Markham is charged a fee for the services provided. For the year ended December 31, 2015, the total fee charged to Markham by the Partnership was approximately \$1.9 million and as of December 31, 2015, amounts owed by Markham to the Partnership for services rendered were approximately \$1.9 million.

Effective January 1, 2015, the Partnership commenced receiving services from Acis. Services include providing certain subadvisory services to the Partnership, to assist the Partnership with its services provided under the Investment Management Agreements with Bandera Strategic Credit Partners I, L.P. and Multi Strategy Master. For the year ended December 31, 2015, the total fee charged by Acis to the Partnership was \$0.4 million and as of December 31, 2015, amounts owed by the Partnership to Acis for services received were approximately \$0.1 million.

9. Note Receivable

On December 21, 2015, the Partnership entered into a contribution agreement (the "Contribution Agreement") with an unaffiliated trust. Pursuant to the Contribution Agreement a note (the "Note Receivable") in the amount of \$63.0 million was due to the Partnership. The Note Receivable will mature on December 21, 2030. The Note Receivable accrues interest at a rate of 2.61% per annum. Accrued interest is paid-in-kind, with principal receipts occurring pursuant to a note amortization schedule, with such annual receipts commencing December 21, 2019.

10. Debt and Notes Payable

Promissory Note

On December 31, 2014, the Partnership entered in to a promissory note with an investor in the amount of \$18.6 million, in exchange for 100% of its LP interest in Highland Multi Strategy Credit Fund, L.P. The Partnership must pay one-third of the initial note amount, plus accumulated interest on each of the first three anniversaries of the note. The promissory note will mature on December 31, 2017. The promissory note accrues interest at a rate of 3.00% per annum. The promissory note is collateralized by limited partnership interest in Multi Strategy Master. As of December 31, 2015 the remaining principal payable on the promissory note was \$12.4 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

On August 5, 2015, the Partnership entered in to a bridge credit agreement with KeyBank, National Association ("KeyBank") in the amount of \$10.0 million. The term loan will mature on February 4, 2016. The term loan accrues interest at the Daily Libor plus 3.00%. Accrued interest shall be paid monthly. The term loan is collateralized by the real property owned by Estates on Maryland. Subsequent to year end, the maturity date was extended to April 7, 2017, as discussed in Note 17. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

On August 17, 2015, the Partnership entered in to a promissory note with Frontier State Bank in the amount of \$9.5 million. The promissory note will mature on August 17, 2018. The promissory note accrues interest at the 3 month LIBOR rate plus 4.75%, adjusted each date of change, per annum. Accrued interest shall be paid quarterly. The promissory note is collateralized by shares of voting common stock of MGM Holdings, Inc. As of December 31, 2015 the remaining principal payable on the promissory note was 9.4 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

On August 28, 2015, Highland Select Equity Partnership, L.P. ("Select") entered in to a promissory note with Eagle Sky Foundation, Inc. in the amount of \$12.0 million. The promissory note accrues interest at 12.00% for the first twelve months, 10.00% for the following twelve months, and 8.00% for the last twelve months. Select must pay one-twelfth of the initial note amount, plus accumulated interest on a quarterly basis. The promissory note will mature on August 28, 2018. The promissory note is collateralized by shares of voting common stock of MGM Holdings, Inc. As of December 31, 2015 the remaining principal payable on the promissory note was \$11.0 million. The fair value of Select's outstanding notes payable approximates the carrying value of the notes payable.

On September 23, 2015, the Partnership received a master securities loan agreement (the "Securities Agreement") from The Get Good Non-Exempt Trust #2 ("Get Good") in the amount of \$6.7 million for securities borrowed. The Securities Agreement accrues interest at a rate of 0.54%, the short term Applicable Federal Rate. The fair value of the loan will fluctuate with the fair value of the borrowed securities, throughout the term of the Securities Agreement. As of December 31, 2015 the fair value of the loan was \$6.9 million. The fair value of the Partnership's securities loan approximates the carrying value of the securities loan.

On August 5, 2015, Estates on Maryland entered in to a loan and security agreement with KeyBank in the amount of \$26.9 million. The loan will mature on September 1, 2020. The loan accrues interest at a rate of 4.00% above the 1 month LIBOR rate in effect from time to time, not to exceed the maximum interest rate allowed by applicable law. Accrued interest shall be paid monthly. The loan is collateralized by the mortgaged property. The fair value of Estates on Maryland's outstanding notes payable approximates the carrying value of the notes payable.

11. Due to Broker

As of December 31, 2015 the due to broker balance of approximately \$485.2 million represents approximately \$240.4 million payable to financing counterparties for margin transactions.

12. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Unfunded Loan Commitments

As of December 31, 2015, Multi Strategy Master had unfunded loan commitments of approximately \$4.9 million, which could be funded at the option of the borrower. The loan commitments carried no funded balance at December 31, 2015, but Multi Strategy Master will be contractually obligated to provide financial support up to the amount of the unfunded loan commitment upon the request of the borrower. Unfunded loan commitments are marked to market on the relevant day of valuation in accordance with Multi Strategy Master's valuation policies. Any applicable unrealized gain/(loss) and change in unrealized gain/(loss) on unfunded loan commitments are recorded on the Consolidated Balance Sheet and the Consolidated Statement of Income, respectively.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, Consolidated statement of Income, or its liquidity. See Note 15.

Operating Leases

The Partnership has an operating lease and associated commitments related to its main office space. Future minimum lease payments under operating lease commitments with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31,

2016	1,506
2017	1,521
2018	1,521
2019	1,550
2020	1,566
Thereafter	2,089
Total	<u>\$ 9,752</u>

Total rental expense of the Partnership and its Consolidated Entities for operating leases was approximately \$1.4 million for the year ended December 31, 2015.

13. Postretirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. A new amendment became effective on January 1, 2011 in which a named participant was admitted to the plan and is eligible to earn benefit accrual. 2011 expense reflects a service cost charge for the value of the new participant's benefit earned during 2011.

The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2015 are reconciled in the tables below.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

(in thousands)

Change in projected benefit obligation	2015
Benefit obligation at beginning of year	\$ 2,250
Service cost	5
Interest cost	77
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	(310)
Acquisition/(divestiture)	-
Benefits paid	(300)
Benefit obligation at end of year	\$ 1,722
Change in plan assets	2015
Fair value of plan assets at beginning of year	\$ 2,446
Actual return on plan assets	(310)
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(300)
Other increase/(decrease)	-
Fair value of plan assets at year end	\$ 1,836
Reconciliation of Funded Status	2015
Accumulated benefit obligation at end of year	\$ 1,722
Projected benefit obligation at end of year	1,722
Fair value of assets at end of year	1,836
Funded status at end of year	\$ 114

The Partnership does not expect to contribute to the plan during 2015.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2015:

Discount rate	4.00%
Rate of compensation increase	N/A

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2015:

Discount rate	3.70%
Expected long-term return on plan assets	3.70%
Rate of compensation increase	N/A

As of December 31, 2015, there were no plan assets categorized as Level 3.

14. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2008 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015.

Crusader Master

Crusader Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Crusader Master. Crusader Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 31, 2035.

For U.S. income tax purposes, Crusader Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Crusader Master's net taxable income.

Since Crusader Master trades investments for its own account, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The General Partner intends to conduct Crusader Master's business in such a way that it does not create a taxable presence in any of the jurisdictions in which the Investment Manager has offices.

Dividends as well as certain interest and other income received by Crusader Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Crusader Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2015, a withholding tax liability of \$0.2 million is included in the accrued expenses in the Consolidated Balance Sheet.

It is management's responsibility to determine whether a tax position of Crusader Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. In accordance with this authoritative guidance, management has established a reserve for federal income tax of approximately \$10.6 million for uncertain tax positions. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015.

Crusader Master files tax returns as prescribed the tax laws of the jurisdictions in which it operates. In the normal course of business, Crusader Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2012 forward (with limited exceptions).

A wholly-owned corporation of Crusader Master is subject to federal income tax. For the year ended December 31, 2015, approximately \$0.9 million of tax expense was included in the Consolidated Balance Sheet. Additionally, this wholly-owned corporation has incurred capital losses on the sale of investments that exceed the amount of capital gains it has earned. A deferred tax asset related to these excess capital losses of approximately \$1.4 million is included in *Other Assets* on the Consolidated Balance Sheet.

Multi Strategy Master

For U.S. income tax purposes, Multi Strategy Master is treated as a pass-through entity, which means it is not subject to federal income taxes under current Internal Revenue Service guidelines. However, each investor may be individually liable for income taxes, if any, on its share of the partnership's net taxable income.

Multi Strategy Master trades in senior secured syndicated bank loans for its own account and, as such, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The Partnership intends to conduct Multi Strategy Master business in such a manner that it does not constitute a U.S. trade or business, nor does it create a taxable presence in any of the jurisdictions in which the Partnership has offices.

Dividends as well as certain interest and other income received by Multi Strategy Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Multi Strategy Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2015, a minimal withholding tax liability of \$1.0 million is classified within accrued expenses and withholding tax payable on the Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Multi Strategy Master applies authoritative guidance which requires management to determine whether a tax position Multi Strategy Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As of December 31, 2015, a liability to account for uncertain tax positions of \$0.1 million is classified within accrued expenses within the Consolidated Balance Sheet. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015.

Multi Strategy Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Multi Strategy Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2012 forward (with limited exceptions).

Credit Strategies Master

Credit Strategies Master is an exempted limited partnership organized in Bermuda. Under the current laws of Bermuda, there is no income, estate, transfer, sale or other taxes payable by Credit Strategies Master. Credit Strategies Master has received an undertaking from the government of Bermuda exempting it from all such taxes until March 31, 2035.

For U.S. income tax purposes, Credit Strategies Master is treated as a pass-through entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on its share of Credit Strategies Master's net taxable income.

It is management's responsibility to determine whether a tax position of Credit Strategies Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015.

Dividends as well as certain interest and other income received by Credit Strategies Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by the Credit Strategies Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. Deferred tax liabilities may result from temporary differences related to the unrealized appreciation on the Credit Strategies Master's investments that will become taxable income in future years. Deferred tax liabilities will become payable upon realization of the gains when the investments are sold, and are measured using the applicable enacted tax rate and provisions of the enacted tax law. Credit Strategies Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Credit Strategies Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2012 forward (with limited exceptions).

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

A wholly owned corporation at Credit Strategies Master may be subject to Federal U.S. Income Tax based on the nature of income, expense, and capital gains/losses. As of December 31, 2015 the wholly owned corporation has a minimal tax expense accrual included in the consolidated financial statements.

Restoration Onshore

Restoration Onshore is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of the Restoration Onshore's net taxable income. Interest, dividends and other income realized by Restoration Onshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Onshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Onshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority.

The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015. Restoration Onshore files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2012 forward (with limited exceptions).

Restoration Offshore

Restoration Offshore is a Cayman Islands exempted company. Under the current laws of the Cayman Islands, there is no income, estate, transfer, sales or other tax payable by Restoration Offshore. Restoration Offshore has elected to be treated as a corporation for U.S. tax purposes and files a protective 1120-F.

The General Partner intends to conduct the business of Restoration Offshore in such a way that Restoration Offshore's activities do not constitute a U.S. trade or business and any income or realized gains earned by Restoration Offshore do not become "effectively connected" with a trade or business carried on in the United States for U.S. federal income tax purposes.

Dividends as well as certain interest and other income received by the master partnership of Restoration Offshore from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by the master partnership of Restoration Offshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Offshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Offshore is more likely than not to be sustained upon examination, including resolution

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015. As of December 31, 2015, the tax years that remain subject to examination by major tax jurisdictions under the statute of limitations is from the year 2012 forward (with limited exceptions).

Healthcare Master

Healthcare Master is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of Healthcare Master's net taxable income. Interest, dividends and other income realized by Healthcare Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at the rate of 30% for non-U.S. Investment Vehicles. Interest, dividends and other income realized by Healthcare Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. Healthcare Master applies the authoritative guidance which requires Management to determine whether a tax position of Healthcare Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. Management has determined that there was no effect on the financial statements from the application of this guidance. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2015. Healthcare Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Healthcare Master is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2015, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2012 forward.

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

15. Legal Proceedings

On July 15, 2008, Crusader Master, Highland Offshore Partners, CDO Master Fund, Multi Strategy Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida ("the Touse action"). The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. The Defendants believed they acted in good faith pursuant to the terms of the relevant agreements and appealed the decision. In February 2011, the District Court of Florida quashed the judgment against the Defendants and overturned the ruling that resulted in the Defendants recording the reserve. The plaintiffs appealed the ruling of the District Court, and the issue was sent to the Eleventh Circuit of Florida. On May 15, 2012, the Eleventh Circuit unexpectedly reversed the District Court's ruling, and

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

remanded the case back to the District Court for review. The last such case was heard by the US Supreme Court case on January 14, 2015. On June 23, 2015, the District Court remanded the case back to the Bankruptcy Court for a report and recommendations regarding the effects of certain settlements on the Plaintiff's available damages. The Bankruptcy Court heard oral arguments on November 19, 2015, but has not yet issued a ruling. The additional liability and damages issues remain stayed at the District Court until the Bankruptcy Court issues its report. Based on the ruling, the Consolidated Entities recorded a combined reserve of approximately \$12.3 million as of December 31, 2015. This reserve is included in *Accrued and other liabilities* on the Consolidated Balance Sheet.

On July 8, 2009, one investor filed suit against Credit Strategies Master, the Partnership, and other affiliated entities (collectively, the "Defendants"). The lawsuit alleges that the Defendants misrepresented the amount of redemptions in Credit Strategies Master. On August 28, 2015, the Dallas Court of Appeals affirmed a summary judgement against the Plaintiffs' claims. As such, the reserve of \$11.3 million has been reversed and is included as a component of Professional fees on the Consolidated Income Statement.

In April 2007, CDO Master Fund entered into a risk sharing agreement with UBS Securities LLC and UBS AG, London Branch (collectively, "UBS" or "UBS Plaintiffs") structured as a derivative whereby it absorbed 51% of the gains and losses generated from a loan warehouse agreement. The remaining 49% of the warehouse gains and losses were absorbed by Highland Special Opportunities Holding Company ("SOHC"). The warehouse was financed by UBS and held collateral consisting of investments in collateralized loan obligations and credit default swaps. Although the agreement expired on August 15, 2007, UBS agreed to extend it for one year on March 15, 2008. Due to liquidity constraints, CDO Master Fund was unable to meet a November margin call, and UBS elected to terminate the agreement as of December 5, 2008. The collateral held in the warehouse was subsequently seized by UBS and sold on the open market through bids-wanted-in competition. After offsetting the proceeds received from the sale and the income earned on the collateral prior to the sale, UBS notified CDO Master Fund that its pro-rata share of the losses incurred under the agreement was \$350.2 million. CDO Master Fund has accrued a liability in its financial statements for this amount.

On February 24, 2009, the UBS Plaintiffs filed a lawsuit against CDO Master Fund, SOHC and the Partnership in the New York State Supreme Court of Manhattan alleging that they suffered losses in excess of \$745 million due to the depreciation in value of the warehouse collateral. On February 19, 2010, the First Appellate Division sided with the Partnership and dismissed UBS' claims against the Partnership. Thereafter on June 22, 2010, the UBS Plaintiffs filed an amended complaint with the Court against the Partnership alleging \$687 million in damages. On March 13, 2012, the First Appellate Division dismissed two of the four claims against the Partnership, and severely limited the scope of the two remaining claims. The Court has yet to rule on motions for summary judgment pending for over two years, and has not set the matter for trial.

In the June 22, 2010 amended complaint, the UBS Plaintiffs also asserted claims against Credit Strategies Master, Multi Strategy Master, Crusader Master, and certain of their affiliates (collectively, the "Additional Fund Defendants"). The UBS Plaintiffs seek to unwind alleged fraudulent transfers involving the Additional Fund Defendants. Although the UBS Plaintiffs have not pled a specific damages amount against the Additional Fund Defendants, any eventual damages award would be subject to pre-judgment interest of 9% (accrued as of December 3, 2008) as well as post-judgment interest of 9% (accrued as of the date a judgment, if any, is entered against the Additional Fund Defendants). Each of the Additional Fund Defendants filed a separate motion to dismiss, each of which was denied. In addition, the Additional Fund Defendants filed a motion for summary judgment,

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

which was heard by the Court on February 14, 2014. On March 11, 2014, the First Appellate Division heard each of the Additional Fund Defendants' respective appeals of the Court's denials of their respective motions to dismiss. On August 19, 2013, the Court restrained the Defendants from transferring or otherwise disposing of property received (or if property had already been transferred or disposed of, the cash equivalent) in March 2009 from Highland Financial Partners, L.P. in connection with the Termination, Settlement and Release Agreement dated March 20, 2009. Shortly thereafter, the UBS Plaintiffs and the UBS Additional Fund Defendants' mutually agreed that, notwithstanding the restraining order, the Additional Fund Defendants' could market and sell any restrained property provided that the proceeds of such sales were not transferred. On November 27, 2013, the Court removed the restraining order, but the UBS Plaintiffs immediately appealed. On January 30, 2014, the Appellate Court reinstated the restraining order pending resolution of the UBS Plaintiffs' appeal on the original terms set forth by the Court on August 19, 2013, and without the modification agreed to with the UBS Plaintiffs. On June 12, 2015, the UBS Plaintiffs settled their claims against the Additional Fund Defendants' for scheduled cash payment totaling \$72.5 million. That restraining order remained in place until January 21, 2016 when the Appellate Court dismissed the appeal as moot following the Defendant's settlement with the UBS Plaintiffs.

On July 17, 2013, Credit Suisse Securities (USA), LLC ("Credit Suisse") filed suit against Credit Strategies Master, Multi Strategy Master, and other affiliates (the "Credit Suisse Defendants"). Credit Suisse's claims relate to several outstanding trades of debt tranches of Goldfield Ranch Reality Holdings, LLC and Westgate Investments, LLC. On May 5, 2014, Credit Suisse moved for summary judgment on both the principal amount and statutory pre-judgment interest. The Court granted the motion on August 6, 2014, and issued judgment on September 11, 2014 in the amount of \$25.5 million in principal, plus \$13.5 million in interest, for a total of \$39.0 million. On January 14, 2016, the Credit Suisse Defendants reached settlement with Credit Suisse for payment of approximately \$77.4 million in satisfaction and release of Credit Suisse's claims. The difference between the settlement amount and total exposure accrued at November 30, 2015, was recognized as of December 31, 2015, bringing the total accrued liability down to the settlement amount. The December 31, 2015 accrual of \$77.4 million is included in *Accrued and other liabilities* on the Consolidated Balance Sheet.

On or about April 10, 2012, CDO Master Fund filed suit against Citibank, N.A. ("CBNA"), Citigroup Global Markets Inc. ("CGMI"), Citigroup Global Markets Limited ("CGML"), and Citigroup Financial Products Inc. ("CFPI") (collectively "Citi" or "Defendants") seeking damages for breach of contract related to Defendants' improper valuation of collateral, improper margin calls, improper declaration of default and improper seizure of collateral. More specifically, Defendants' breaches have proximately caused CDO Master Fund to suffer damages resulting from Defendants' misappropriation of assets that rightfully belong to CDO Master Fund. CDO Master Fund seeks recovery in the form of a return of the assets improperly seized by Defendants. To the extent that a return of the improperly-seized assets to CDO Master Fund is not possible or feasible, CDO Master Fund seeks damages in an amount sufficient to put it in the same economic position it would have been in had Defendants properly performed under the contracts.

Over one year after CDO Master Fund filed its suit, and having failed in its efforts to dismiss the lawsuit, Citi filed two breach of contract counterclaims against CDO Master Fund and two other counter-defendants, Highland CDO Opportunity Fund GP, L.P. and the Partnership. CDO Master Fund believes this post-hoc claim is baseless and merely brought to try to create a bargaining position. On or about March 30, 2016, the Court granted certain of the parties' motions for summary judgment. As a result of this ruling, both CDO Master Fund and Citi's claims have been pared down. The Court also ordered additional limited discovery be conducted, and that the parties submit a final round of motions for summary judgment following the conclusion of that discovery. CDO Master

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Fund has accrued a liability in its financial statements for this claim in the amount of \$10.8 million and is included in *Due to brokers* on the Consolidated Balance Sheet. No trial has been set in this matter.

In April 2012, the Partnership filed suit against a former employee for breach of contract, defamation and theft of trade secrets. The former employee filed a counterclaim with numerous, unrelated allegations. The Partnership refuted each allegation in detail. The former employee seeks unspecified damages against the Partnership and certain affiliates. On February 6, 2014, the jury found the former employee breached his fiduciary duty to the Partnership. The jury found that neither the Partnership nor any of its employees had breached any duty, and awarded \$2.8 million to the Partnership. The jury also found that HERA owed \$2.6 million related to an employee retention plan. The court entered judgment on the verdict on July 11, 2014. The former employee has filed his appeal against the Partnership and HERA has filed its appeal against the judgment amount. The appellate court has yet to rule on the pending appeals.

In addition to the legal actions that are discussed above, the Partnership is subject to other legal actions arising from the ordinary course of its business. The ultimate outcome of these other cases is inherently uncertain and could result in additional losses to the Partnership.

16. Fund Wind Down

On February 2, 2009, the Partnership informed investors of CDO Master that the fund was effectively insolvent as the liabilities in the fund exceed the assets to such a degree that proceeds from the asset sales will not be able to satisfy any unpaid redemptions or to distribute amounts to any current investors.

During 2008, Crusader Master and Credit Strategies Master were negatively affected by deteriorating conditions in the overall economy and credit markets. These conditions became more severe during the third and fourth quarters of 2008 and generated significant losses on various derivative transactions and repurchase agreements to which Crusader Master and Credit Strategies Master were parties. In addition, certain assets that Crusader Master and Credit Strategies Master purchased on margin through prime brokerage agreements experienced a significant decline in value. In certain cases, Crusader Master and Credit Strategies Master were unable to post the collateral required to secure these losses, and the counterparties provided notice of their intent to terminate the agreements. As a result, access to the credit that Crusader Master and Credit Strategies Master used to manage its investing and financing activities became highly constrained, and in some cases unavailable. In light of these circumstances, the General Partners (the general partner of Crusader Master and the general partner of Credit Strategies Master) and the Board of Directors of Highland Credit Strategies Fund, Ltd. and Highland Crusader Fund, Ltd. concluded, in consultation with the Investment Manager, that it would be in the best interests of their investors to wind down the investment portfolios of Credit Strategies Master and Crusader Master. On October 15, 2008, the Investment Manager notified investors that it would begin the wind-down process. The Investment Manager also restricted subscriptions and the payment of withdrawals to its feeder funds effective the same date.

In connection with the wind down, the limited partner interests of the Feeder Funds of Credit Strategies and Crusader were compulsorily withdrawn/redeemed on October 15, 2008 and November 15, 2008, respectively, in accordance with the terms of the governing documents.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Crusader Master

On July 15, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement (the "Scheme") that facilitates the winding-down of the investments of Crusader Master and the distribution of its assets. A substantial majority of the investors in its feeder funds consented to The Plan of Distribution ("The Plan") as outlined in the Scheme. The Scheme became effective as of August 1, 2011 (the "Effective Date").

The Scheme establishes two classes of claims; those feeder fund investors who had timely submitted withdrawal/redemption requests for withdrawal/redemption dates that fell on or before June 30, 2008 and who had not received full payment ("Prior Redeemers"), and those feeder fund investors that had not timely submitted such withdrawal/redemption requests for redemption/withdrawal dates that fell on or before June 30, 2008 ("Compulsory Redeemers") (together "Redeemers"). The basis for ratable distribution amongst both classes of Redeemers was the November 15, 2008 balances of said Redeemers ("Redemption Amount"), adjusted to add back any redemption penalties assessed against Prior Redeemers during 2008. A realization schedule for distributions is set forth in Appendix A of the Scheme (the "Realization Schedule"). The terms of the Scheme are outlined as follows:

1. Prior Redeemers shall be entitled to 60% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Prior Redeemers' Distribution"). Each Prior Redeemer shall be entitled to their pro rata share of the Crusader Fund Prior Redeemers' Distribution based on the Prior Redeemer's Redemption Amount relative to the total of all Prior Redeemers' Redemption Amounts (inclusive of all feeders).
2. Compulsory Redeemers shall be entitled to 40% in aggregate of the total distributions made by the Master Partnership constituting excess cash (the "Crusader Fund Compulsory Redeemers' Distribution"). With the exception of the non-consenting Compulsory Redeemers discussed below, each Compulsory Redeemer shall be entitled to their pro rata share of the Crusader Fund Compulsory Redeemers' Distribution based on the Compulsory Redeemer's Redemption Amount relative to the total of all Compulsory Redeemers' Redemption Amounts (inclusive of all feeders).

In the event the Investment Manager fails to make distributions in accordance with the Realization Schedule for two consecutive quarters without receiving a waiver from the committee of Redeemers appointed to help oversee the Scheme (the "Redeemer Committee"), the Investment Manager can be removed for cause as the Investment Manager of the Master Partnership by the Redeemer Committee.

Crusader Redeemer Trust Account

Effective July 15, 2011, a trust account was set-up and funded for the benefit of Compulsory Redeemers who had consented to the Scheme and Prior Redeemers (the "Redeemer Trust Account"). The portion of amounts in excess of the Redemption Amounts otherwise attributable to non-consenting Compulsory Redeemers was contributed to the Redeemer Trust Account and not distributed to non-consenting Compulsory Redeemers. Amounts in the Redeemer Trust Account are reserved and used to pay all costs of Crusader Master to defend, respond to, settle and satisfy any claims by Redeemers other than for their Scheme claim.

The non-consenting Compulsory Redeemers do not receive any allocation of profit and loss; the portion of profit and loss that would otherwise be allocated to their accounts is instead allocated to the Redeemer Trust Account. The Redeemer Trust Account is accounted for as a component of equity in the Crusader Onshore Feeder Fund. Within the earlier of 30 days after all redeemer claims have been resolved or dismissed with prejudice or the sixth anniversary of the effective date, any

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

amounts remaining in the Redeemer Trust Account shall be distributed 100% to consenting Compulsory Redeemers pro rata based on their relative Redemption Amounts.

Crusader Deferred Fee Account

In accordance with the Scheme and Plan, the "Deferred Fee Account" was established on the effective date by allocating the right for the Partnership to potentially receive payment in respect of deferred fees ("Deferred Fees") equal to \$10.0 million.

The Plan and Scheme provide that in the event that the Crusader Master makes aggregate distributions of at least \$1.7 billion prior to the forty-third month following the effective date ("Aggregate Distribution Date"), the Partnership shall be entitled to receive payment in respect of the Deferred Fee Account.

The Plan and Scheme further provide that in the event that the Crusader Master does not make aggregate distributions of at least \$1.7 billion prior to the Aggregate Distribution Date, then the Partnership will cause the Feeder Funds to distribute the right to receive payment 100% to consenting Compulsory Redeemers (pro rata based on their relative Redemption Amounts). The Deferred Fee Account will continue to be allocated its pro rata portion of profit and loss.

The Partnership believes that the restraining order imposed against the Crusader Master in connection with the UBS Litigation (as defined in Note 15) rendered performance of the stated Realization Schedule impossible as a matter of law. Accordingly, the Partnership believes that any non-performance attributable to such restraining order is excused as a matter of law and thus all periods of the Realization Schedule have been extended for the period of non-performance attributable to such restraining order as a matter of law ("Realization Schedule Extension").

Crusader Deferred Fee Distributions

The Partnership shall continue to be entitled to receive payment in respect of the Deferred Fees from the applicable Feeder Fund. However, the Partnership similarly believes that the restraining order prevented the full liquidation of the Crusader Master's portfolio prior to the forty-third month after the effective date. In this situation, the Partnership would have received the Deferred Fees prior to, or on, the forty-third month after the effective date, but-for the impact of the restraining order still was in place. Therefore, the Partnership believes it has the right to receive the ratable and nonforfeitable portion of such fees crystallized as of the date the restraining order was lifted.

Until the all of the Deferred Fees have been paid, the Crusader Master shall distribute to each applicable Feeder Fund amounts, and such Feeder Fund shall fully reserve for such distributions in cash. The cash held in reserve for such Deferred Fees shall be maintained in an interest bearing account, with all interest being retained by the applicable Feeder Fund for the benefit of its Redeemers.

Crusader Distribution Fee

Under the Plan and Scheme, provided that assets equal to or in excess of the amount scheduled in the Realization Schedule have been distributed to Redeemers during such applicable distribution period, the Partnership will receive fees in cash in the amount of 125 basis points calculated based on all amounts actually distributed to Redeemers during such period following the effective date. This fee will also be paid and expensed out of Highland Crusader Fund, Ltd., Highland Crusader Fund II, Ltd., and Highland Crusader Fund, L.P. ("Feeder Funds") and will be charged to each capital account in the Feeder Funds, regardless of affiliation.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

The Partnership believes the Realization Schedule Extension has extended the applicable distribution periods.

Crusader Wind Down Progress

As a result of the litigation discussed in Note 15, Crusader Master did not make distributions as part of the wind down in accordance with the Scheme for the year ended December 31, 2015. Since the Scheme's effective date, approximately \$1,351.2 million has either been distributed to the Feeder Funds for purposes of disbursement, or withheld and specially allocated for tax payments.

As of December 31, 2015, the estimated value of the partners' capital of Crusader Master was approximately \$381.2 million. The actual amounts that will be distributed upon completion of the wind down process are inherently uncertain and may differ materially from the partners' capital as of December 31, 2015. Capital will be distributed as it becomes available in accordance with the Scheme.

Credit Strategies Master

To facilitate the winding-down of the investments in Credit Strategies Master, a Plan of Distribution (the "Credit Strategies Plan") was also adopted by Credit Strategies Master and its feeder funds and was consented to by a substantial majority of the investors in its feeder funds. On April 14, 2011, the Supreme Court of Bermuda Commercial Court sanctioned a Scheme of Arrangement the ("Credit Strategies Scheme") that incorporates the terms of the Credit Strategies Plan so as to be binding upon Highland Credit Strategies Fund, Ltd. and its investors. The Credit Strategies Scheme became effective on May 1, 2011. The Credit Strategies Plan established two classes of claims; those investors of the Feeder Funds whose withdrawals/redemptions became effective on or before September 30, 2008 and who have not received full payment of their redemption amount ("Prior Redeemers") and those investors of the feeder funds who were compulsorily withdrawn/redeemed on October 15, 2008 ("Compulsory Redeemers").

As investments in Credit Strategies Master are realized, distributions will be made in the following order, which summarizes the terms outlined in the Credit Strategies Plan:

1. Payments for fund expenses
2. The first \$30 million available for distribution ratably to Prior Redeemers
3. The next approximately \$5.3 million available for distribution ratably to consenting Compulsory Redeemers and a trust account established for the benefit of non-consenting Compulsory Redeemers ("Redeemer Trust Account")
4. All remaining funds will be distributed as follows:
 - a. 85% ratably to Prior Redeemers
 - b. 15% to consenting Compulsory Redeemers and the Redeemer Trust Account

This method of distribution results in a shift of capital from the Prior Redeemers to the consenting Compulsory Redeemers and the Redeemer Trust Account. It also created a shift of capital from its offshore feeder to its onshore feeder, since there was a greater proportion of Compulsory Redeemers to Prior Redeemers in the onshore feeder than in the offshore feeder.

Credit Strategies Redeemer Trust Account

The Redeemer Trust Account is used to pay for litigation costs involving the non-consenting Compulsory Redeemers. The Credit Strategies Plan outlines which expenses related to litigation ("Covered Claims") will be paid using funds from the Redeemer Trust Account, and any litigation will continue to be assessed under an ASC 450 (Contingencies) model.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Credit Strategies Contribution Trust Account

In accordance with the Credit Strategies Plan and in exchange for certain releases, a trust account (the "Contribution Trust Account") was established and initially funded on the effective date with \$3.0 million contributed by the Partnership. The Partnership also paid an additional \$6.0 million on May 1, 2014, approximately the third anniversary of the effective date of the Credit Strategies Plan. This \$6.0 million was recognized as a subscription into Credit Strategies Master during the year ended December 31, 2013, and was received in cash during the year ended December 31, 2014.

The Contribution Trust Account will be used to pay for expenses related to Covered Claims to the extent that the Redeemer Trust Account is insufficient to pay such expenses. Within 30 days after all Covered Claims have been resolved or dismissed with prejudice, or the sixth anniversary of the effective date, provided that no suits asserting Covered Claims are then pending, whichever is earlier, any remaining balance in the Contribution Trust Account will be distributed 85% to consenting Compulsory Redeemers and 15% to consenting Prior Redeemers.

Similar to the Redeemer Trust Account, the Contribution Trust Account is treated as a separate component of equity. Additionally, the initial payment of the \$3.0 million was treated as a contribution to the Master Partnership. However, the Contribution Trust Account does not receive an allocation of profit and loss. The only changes to the account will occur when contributions are made or expenses related to Covered Claims are paid.

As discussed in Note 15, a legal reserve of \$11.3 million was reversed and included as a component of Legal Expense on the Consolidated Income Statement. This was partially allocated to the Contribution Trust and resulted in the \$3.5 million equity balance at December 31, 2015.

17. Subsequent Events

Over the course of 2016 through the report date, HCMSI issued promissory notes to the Partnership in the amounts of \$12.5 million. The notes accrue interest at a rate ranging from 2.24% - 2.65%.

On February 26, 2016, HCMFA issued a promissory note to the Partnership in the amount of \$2.3 million. The note accrues interest at a rate of 2.62%.

Over the course of 2016 through the report date, NexPoint issued additional borrowings on its revolving line of credit to the Partnership in the amount of \$2.2 million. The borrowings accrue interest at a rate of 6.0%.

As discussed in Note 10, on April 7, 2016 the Partnership extended the maturity date on the term loan with Key Bank to April 7, 2017. The amount of the Term Loan increased to \$15.0 million.

On April 26, 2016, Highland Acquisition Corporation issued a promissory note to the Partnership in the amount of \$0.2 million. No interest shall accrue on the note.

On January 14, 2016, the various Consolidated Entities settled the Credit Suisse lawsuit resulting in the payment of the \$77.4 million. The amount paid had previously been accrued as a component of *Accrued and other liabilities* and *Due to broker for securities purchased not yet settled* on the Consolidated Balance Sheet. Additionally, the settlement resulted in a reduction of previously accrued expenses of approximately \$1.5 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2015

Upon the lifting of the UBS restraining order, the Credit Strategies Master then was permitted to pay the amounts payable under the Credit Strategies Plan and Scheme from the Contribution Trust. As of December 31, 2015, the Contribution Trust had remaining net assets of approximately \$3.5 million, a portion of which was held in cash and a portion of which is held in an unliquidated limited partnership capital balance. The cash portion of the Contribution Trust's net assets of approximately \$2.1 million was distributed in accordance with the terms of the Credit Strategies Plan and Scheme on April 22, 2016.

On April 11, 2016, the Redeemer Committee for Credit Strategies Master filed a Petition to Confirm Arbitration Award against the Partnership in relation to the 2013 sale of an asset in Credit Strategies Master. The award includes \$7.0 million in damages, pre- and post-judgment interest of \$4.1 million as of May 19, 2016, plus legal fees. If confirmed, the award would require the Partnership to distribute to the investors of the Credit Strategies feeder funds the net proceeds received by Credit Strategies Master from the sale of the asset as well as the damages awarded, the pre- and post-judgment interest, and fees. The award has not yet been judicially confirmed and remains subject to dispute.

On April 4, 2016, a distribution was made to Crusader Master investors related to the sale of the life settlements portfolio. In total, approximately \$196.7 million was either distributed to the Feeder Funds for purposes of disbursement, or withheld and specially allocated for tax payments. Since the Scheme and Plan effective date, and including this distribution, approximately \$1.5 billion has been either distributed to the Crusader Master Feeder Funds for purposes of disbursement, or withheld and specially allocated for tax payments.

In accordance with the Partnership's position as set forth in Note 16, Highland Crusader Fund, Ltd. and Highland Crusader Fund II, Ltd. paid Deferred Fees to the Partnership of approximately \$28.3 million on January 21, 2016 and \$4.1 million on April 5, 2016. These amounts represent the Partnership's ratable and unforfeitable portion of such fees based upon distributions to Redeemers made through and including those respective dates. Cash for such fees had been reserved in conjunction with aggregate previous distributions to Redeemers from the remaining portion of the Deferred Fees (not including the Deferred Fee Account).

In accordance with the Partnership's position as set forth in Note 16, Highland Crusader Fund, Ltd., Highland Crusader Fund II, Ltd., and Highland Crusader Fund, L.P. paid approximately \$1.5 million and \$2.4 million of distribution fees to the Partnership related to the November 27, 2013 and April 4, 2016 distributions, respectively.

The Partnership has performed an evaluation of subsequent events through May 19, 2016, which is the date the consolidated financial statements were available to be issued, and has determined that there are no other material subsequent events that would require disclosure in the Partnership's consolidated financial statements.

Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Balance Sheet
December 31, 2015

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Assets				
Cash and cash equivalents	\$ 4,756	\$ 40,824	\$ -	\$ 45,580
Restricted cash	2,621	72,314	-	74,935
Investments at fair value	143,245	1,419,308	-	1,562,553
Equity method investees	193,276	-	(193,276)	-
Management and incentive fees receivable	9,004	-	(1,462)	7,542
Due from brokers	-	8,607	-	8,607
Other assets	7,513	11,435	(2,585)	16,363
Deferred incentive fees receivable	31,214	-	-	31,214
Due from affiliates	63,031	-	-	63,031
Note receivable	63,000	11,000	(11,000)	63,000
Fixed assets and leasehold improvements, net of accumulated depreciation of \$7,683	7,864	39,846	-	47,710
Total assets	\$ 525,524	\$ 1,603,334	\$ (208,323)	\$ 1,920,535
Liabilities and partners' capital				
Liabilities				
Accounts payable	\$ 4,544	\$ 123	\$ -	\$ 4,667
Securities sold, not yet purchased	-	198,605	-	198,605
Withdrawals payable	-	78,733	-	78,733
Due to brokers	51,292	434,740	(786)	485,246
Due to brokers for securities purchased, not yet settled	-	55,934	-	55,934
Accrued and other liabilities	34,285	58,657	(3,261)	89,681
Debt and notes payable	49,746	65,913	(11,000)	104,659
Total liabilities	139,867	892,705	(15,047)	1,017,525
Non-controlling interest	-	517,353	-	517,353
Commitments				
Partners' capital	385,657	193,276	(193,276)	385,657
Total liabilities and partners' capital	\$ 525,524	\$ 1,603,334	\$ (208,323)	\$ 1,920,535

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Statement of Income
Year Ended December 31, 2015

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Revenue:				
Management fees	\$ 54,644	\$ -	\$ -	\$ 54,644
Interest and investment income	2,649	53,464	-	56,113
Other income	14,121	3,505	-	17,626
Total revenue	71,414	56,969	-	128,383
Expenses:				
Legal settlement	-	55,000	-	55,000
Compensation and benefits	36,202	734	-	36,936
Professional fees	6,857	28,922	-	35,779
Marketing and advertising expense	7,452	-	-	7,452
Investment and research consulting	967	-	-	967
Depreciation and amortization	1,402	1,342	-	2,744
Tax expense	-	875	-	875
Bad debt expense	801	-	(801)	-
Other operating expenses	9,236	13,217	801	23,254
Total expenses	62,917	100,090	-	163,007
Other expense	4,869	-	-	4,869
Income/(loss) before investment and derivative activities	13,366	(43,121)	-	(29,755)
Realized and unrealized gain/(loss) from investment and derivative transactions:				
Net realized loss on investment and derivative transactions	3,969	(55,974)	-	(52,005)
Net change in unrealized loss on investment and derivative transactions	(38,859)	(160,626)	-	(199,485)
Total realized and unrealized loss from investment and derivative transactions	(34,890)	(216,600)	-	(251,490)
Net unrealized earnings from equity method investees	(154,941)	-	154,941	-
Net loss	(176,465)	(259,721)	154,941	(281,245)
Net loss attributable to the non-controlling interest	-	104,780	-	104,780
Net loss attributable to Highland Capital Management, L.P.	\$ (176,465)	\$ (154,941)	\$ 154,941	\$ (176,465)

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2015

(in thousands)

Assets

Current assets:

Cash and cash equivalents	\$	4,756
Restricted cash		2,621
Investments at fair value (cost \$198,659)*		268,299
Equity method investees		68,222
Management and incentive fees receivable		9,004
Other assets		7,513
Deferred incentive fees receivable		31,214
Due from affiliates		63,031
Note receivable		63,000
Fixed assets and leasehold improvements, net of accumulated depreciation of \$7,170		7,864

Total assets	\$	525,524
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Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,544
Due to brokers		51,292
Accrued and other liabilities		34,285
Notes payable		49,746

Total liabilities		139,867
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Partners' capital		385,657
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Total liabilities and partners' capital	\$	525,524
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*Investments, at fair value includes \$112.0 million of limited partnership interest ownership of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2015 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
Year Ended December 31, 2015

(in thousands)

Revenue:

Management fees	\$ 54,644
Interest and investment income	2,649
Shared services fees and miscellaneous income	14,121
Total revenue	<u>71,414</u>

Operating expenses:

Compensation and benefits	36,202
Professional fees	6,857
Marketing and advertising expense	7,452
Investment and research consulting	967
Depreciation and amortization	1,402
Bad debt expense	801
Other operating expenses	9,236
Total operating expenses	<u>62,917</u>

Other income	4,869
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Income before investment activities	<u>13,366</u>
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Realized and unrealized gains/losses from investments:

Net realized gain on sale of investments	3,969
Net change in unrealized loss on investments*	(56,866)
Total realized and unrealized loss from investments	(52,897)

Losses from equity method investees:	(136,934)
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Net loss	<u><u>\$ (176,465)</u></u>
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*Net change in unrealized gain on investments includes \$ 17.3 million of unrealized losses from holdings of limited partnership interests of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2015 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

EXHIBIT 71

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

Consolidated Financial Statements and Supplemental Information December 31, 2016

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Index
December 31, 2016

	Page
Report of Independent Auditors	1
Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Changes in Partners' Capital.....	4
Consolidated Statement of Cash Flows.....	5
Notes to Consolidated Financial Statements	6-43
Supplemental Information.....	44-48



Report of Independent Auditors

To the General Partner of Highland Capital Management, L.P.

We have audited the accompanying consolidated financial statements of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership"), which comprise the consolidated balance sheet as of December 31, 2016, and the related consolidated statements of income, of changes in partners' capital and of cash flows for the year then ended.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the consolidated financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Partnership's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Partnership's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Highland Capital Management, L.P. and its subsidiaries as of December 31, 2016, and the results of their operations, changes in their partners' capital and their cash flows for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The Supplemental Consolidating Balance Sheet, the Supplemental Consolidating Statement of Income, the Supplemental Unconsolidated Balance Sheet and the Supplemental Unconsolidated Statement of Income are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. The information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the financial statements. The information has been subjected to the auditing procedures applied in the audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves and other additional procedures, in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the consolidated financial statements taken as a whole.

A handwritten signature in black ink that reads "PricewaterhouseCoopers LLP".

May 19, 2017

PricewaterhouseCoopers LLP, 2001 Ross Avenue, Suite 1800, Dallas, Texas 75201
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Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2016

(in thousands)

Assets

Cash and cash equivalents	\$	30,129
Investments at fair value (cost \$1,203,426)		1,097,910
Management and incentive fees receivable		12,583
Due from broker for securities sold, not yet settled		892
Other assets		12,909
Notes and other amounts due from affiliates		172,671
Notes receivable		6,421
Fixed assets and leasehold improvements, net of accumulated depreciation of \$8,533		6,747
Total assets	\$	1,340,262

Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,443
Securities sold, not yet purchased (proceeds \$138,589)		146,792
Withdrawals payable		68,199
Due to brokers		171,647
Due to brokers for securities purchased, not yet settled		1,614
Accrued and other liabilities		42,838
Debt and notes payable		45,953
Investment liabilities		27,318
Total liabilities		508,804

Non-controlling interest		412,847
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Commitments

Partners' capital		418,611
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Total liabilities and partners' capital	\$	1,340,262
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Income
Year Ended December 31, 2016

(in thousands)

Revenue:

Management fees	\$	52,599
Interest and investment income		34,207
Shared services fees		9,563
Incentive fees		8,151
Other income		4,142
Total revenue		<u>108,662</u>

Expenses:

Compensation and benefits	37,127
Professional fees	11,032
Interest expense	5,761
Marketing and advertising expenses	5,170
Bad debt expense	2,094
Depreciation and amortization	1,367
Investment and research consulting	829
Other operating expenses	11,160
Total expenses	<u>74,540</u>

Other income	<u>10,779</u>
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Income before investment and derivative activities	<u>44,901</u>
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Realized and unrealized gain from investments and derivatives:

Net realized appreciation on investments and derivatives	125,732
Net change in unrealized loss on investments and derivatives	<u>(77,649)</u>
Total realized and unrealized gain from investments and derivatives	<u>48,083</u>

Net income	92,984
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Net income attributable to the non-controlling interest	<u>(53,628)</u>
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Net income attributable to Highland Capital Management, L.P.	<u>\$ 39,356</u>
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2016

(in thousands)

	General Partner	Limited Partners	Total
Partners' capital, December 31, 2015	\$ -	\$ 385,657	\$ 385,657
Net income attributable to Highland Capital Management, L.P.	99	39,257	39,356
Partner distributions	(16)	(6,386)	(6,402)
Partners' capital, December 31, 2016	<u>\$ 83</u>	<u>\$ 418,528</u>	<u>\$ 418,611</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2016

(in thousands)

Cash flows from operating activities:

Net income	\$ 92,984
Adjustment to reconcile net income to net cash provided by operating activities:	
Net realized gain on investments and derivative transactions	(125,732)
Net change in unrealized loss on investments and derivative transactions	77,649
Amortization and depreciation	1,367
Changes in assets and liabilities:	
Restricted cash	2,621
Management and incentive fee receivable	(5,041)
Deferred incentive fees	31,214
Due from brokers	320
Due from affiliate	(3,846)
Other assets	(2,347)
Accounts payable	(140)
Accrued and other liabilities	(878)
Due to brokers for securities purchased, not yet settled	(5,441)
Due to brokers	47,931
Net cash provided by operating activities	<u>110,661</u>

Cash flows from investing activities:

Purchases of fixed assets and leasehold improvements, net	(250)
Purchases of investments	(495,849)
Proceeds from dispositions of investments	606,617
Proceeds from securities sold, not yet purchased	118,744
Issuance of notes receivable to affiliates	(42,235)
Proceeds from repayments of notes receivable from affiliates	16,286
Purchases of investments to cover securities sold, not yet purchased	(223,490)
Net cash used in investing activities	<u>(20,177)</u>

Cash flows from financing activities:

Payments on long-term debt	(19,705)
Capital withdrawals by minority interest investors of consolidated entities	(49,860)
Partner distributions	(6,402)
Net cash used in financing activities	<u>(72,167)</u>

Net increase in cash and cash equivalents	18,317
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Cash and cash equivalents

Beginning of year	45,580
Additional cash from new consolidated funds	(33,768)
End of year	<u>\$ 30,129</u>

Supplemental disclosure of cash flow information:

Interest paid during the year	\$ (4,947)
Taxes paid during the year	(1,541)
Investments acquired for non-cash consideration	13,333
Investments disposed for non-cash consideration	(23,368)

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.

Notes to Consolidated Financial Statements

December 31, 2016

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment adviser under the Investment Advisers Act of 1940 that manages collateralized loan obligations ("CLOs"), hedge funds, private equity funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is owned by an unaffiliated trust as well as affiliated trusts and personal holdings of the senior management of the Partnership.

As of December 31, 2016, the Partnership provided investment advisory services for twenty-nine CLOs, seven separate accounts, one master limited partnership, and eleven hedge fund or private equity structures, with total fee-earning assets under management of approximately \$6.7 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its consolidated financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification and are stated in the United States Dollar.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries, which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions of the entity, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions of the entity, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs' expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The Partnership assesses consolidation requirements pursuant to ASU 2015-02: Consolidation, which was adopted using the modified retrospective method and resulted in an effective date of adoption of January 1, 2016. Early adoption of ASU 2015-02 resulted in deconsolidation of Highland Crusader Offshore Partners, L.P. ("Crusader"), Highland Credit Strategies Master Fund, L.P. (Credit Strategies), and Highland CDO Opportunity Master Fund, L.P.

The Partnership and its affiliate's involvement with unconsolidated VIEs is generally limited to that of an advisory services provider, and their investment, if any, represents an insignificant interest in the relevant investment entities' assets under management. The Partnership's affiliate's exposure to risk in these entities is generally limited to any capital contribution it has made or is required to make and any earned but uncollected asset based and performance fees. The Partnership has not issued any investment performance guarantees to these VIEs or their investors, except that the Partnership has agreed to subject the full value of its equity interest (\$0.9M) in Highland Prometheus Fund to dollar-for-dollar reduction to the extent the third party investor in such fund does not achieve an annual target return.

As of December 31, 2016, the net assets of the unconsolidated VIEs and the Partnership's maximum risk of loss were as follows:

	<u>Unconsolidated VIE Net Assets</u>	<u>Carrying Value and Maximum Risk of Loss</u>
Sponsored investment funds	\$ 560,665,698	\$ 10,118,175

Consolidation of Non-Variable Interest Entities

The Partnership consolidates the following non-VIEs (along with majority owned funds: Highland Diversified Credit Fund, L.P., and Highland Select Equity Fund, L.P., collectively the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Multi Strategy Credit Fund, L.P. ("Multi Strategy Master"), formerly Highland Credit Opportunities CDO, L.P., a Delaware limited partnership that commenced operations on December 15, 2005 and changed its name on August 26, 2014;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore"), a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore"), a Delaware limited partnership that commenced operations on September 2, 2008; and

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

- BB Votorantim, Highland Infrastructure LLC ("BB Votorantim"), a Delaware limited liability company which began operations on May 29, 2014.

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Brasil, LLC, a Delaware limited liability company that commenced operations on January 28, 2014;
- 100% interest in Highland Capital Management Partners Charitable Trust #1, a trust that commenced operations on September 19, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte, Ltd., a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 100% interest in Highland Capital Management Korea, Ltd., a company organized in the Republic of Korea that commenced operations on August 2, 2012;
- 100% interest in HE Capital, LLC, a Delaware limited liability company that was formed on March 22, 2007;
- 100% interest in De Kooning, Ltd, a Cayman company that was formed on December 1, 2012;
- 100% interest in Hirst, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Hockney, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Oldenburg, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Eames, Ltd, a Cayman company that was formed on December 12, 2012;
- 100% interest in Neutra, Ltd., a Cayman company that was formed on December 1, 2012;
- 99.9% interest in Penant Management, L.P., a Delaware limited partnership that was formed on December 12, 2012;
- 100% interest in Pollack, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Warhol, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in HCREF-I Holding Corp., a Delaware company that was formed on December 13, 2012;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

- 100% interest in HCREX-XI Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREX-XII Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in Highland ERA Management, LLC, a Delaware limited liability company that was formed on February 1, 2013;
- 100% interest in The Dondero Insurance Rabbi Trust, a trust that was formed on May 27, 2004;
- 100% interest in The Okada Insurance Rabbi Trust, a trust that was formed on May 27, 2004;
- 100% interest in NexPoint Opportunistic Credit Fund (*fka NexPoint Distressed Strategies Fund*), a closed-end management investment company that was formed on March 2, 2016;
- 80% interest in Highland Employee Retention Assets ("HERA"), LLC, a Delaware limited liability company that was formed on October 26, 2009;
- 100% interest in Highland Diversified Credit Fund, L.P. ("Highland Offshore Partners"), a Delaware limited partnership which began operations on February 29, 2000 and was organized for the sole purpose of investing substantially all of its assets in Highland Offshore Partners, L.P.;
- 99.6% interest in Highland Select Equity Master Fund, LP, and Highland Select Equity Fund, LP Delaware limited partnerships which began operations on January 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value;
- 100% interest in Bandera Strategic Credit Partners I SLP, L.P., a Delaware limited liability company formed on April 3, 2014;
- 100% interest in Highland Fund Holdings, LLC, a Delaware limited liability company that was formed on May 24, 2016;
- 100% interest in HCM Holdco, LLC, a Delaware limited liability company formed on October 27, 2015 and;
- 100% interest in Maple Avenue Holdings, LLC, a Texas limited liability company formed on August 17, 2016.
- 98.9% interest in Highland Acquisition Corporation, a Delaware Corporation formed on April 25, 2016.

All inter-partnership and intercompany accounts and transactions involving the above listed consolidated entities ("Consolidated Entities") have been eliminated in all of the aforementioned consolidating schedules. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide - Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Due to the deconsolidation of certain investment funds, some prior year balances referenced within the following notes to the consolidated financial statements may not tie to prior year issued financial statements.

The following table includes a rollforward of noncontrolling interests from December 31, 2015, to December 31, 2016.

(in thousands)

Noncontrolling interest, December 31, 2015	\$ 517,353
Net income attributable to noncontrolling interest	53,628
Noncontrolling partner distributions	(39,397)
Noncontrolling interest of deconsolidated entities	<u>(118,737)</u>
Noncontrolling interest, December 31, 2016	<u>\$ 412,847</u>

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

See Note 5 for the Partnership's fair value process and hierarchy disclosures.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2016, the Partnership and its Consolidated Entities recognized management fees and incentive fees of approximately \$52.6 million and \$8.1 million, respectively. The Partnership recognized approximately \$0.9 million of appreciation on incentive fees earned prior to 2008, previously deferred under Sec. 409(A) of the Internal Revenue Code, which has been presented in *Other Income* in the Consolidated Statement of Income.

Shared Services Revenue

The Partnership recognizes revenue as earned in connection with services provided to related parties under various shared services agreements. Under these agreements, the Partnership earns fees for services including, but not limited to, back office support functions, marketing, and investment advisory services. During the year ended December 31, 2016, the Partnership and its Consolidated Entities recognized shared services revenue of approximately \$9.6 million, which has been presented in *Shared services fees* in the Consolidated Statement of Income. See further discussion in Note 8.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Income and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums associated with purchases of investments are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis over the life of the investment. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these consolidated financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. See further discussion in Note 14.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Cash equivalents are carried at cost, which approximates market value. At December 31, 2016, the Partnership and Consolidated Entities held cash balances at certain financial institutions in excess of the federally insured limit of \$0.3 million. The Partnership and Consolidated Entities regularly monitor the credit quality of these institutions.

Restricted Cash

The Partnership and its subsidiaries are required to maintain cash balances as collateral for various financing and derivative transactions. These amounts are reported as restricted cash on the Consolidated Balance Sheet.

Notes Receivable

Notes receivable consists of secured promissory notes with maturities greater than one year. When available, the Partnership uses observable market data, including pricing on recent closed transactions to value notes. When appropriate, these notes may be valued using collateral values. Adjustments to the value may be performed in circumstances where attributes specific to the collateral exist suggesting impairment.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

The Partnership and its Consolidated Entities are depreciating fixed assets as follows:

	<u>Period</u>
Leasehold improvements	Lease term
Buildings	29 - 40 years
Furniture and fixtures	7 years
Computer and equipment	3 - 5 years
Computer software	3 years

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Partnership's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand.

Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender. A gain (which cannot exceed the price at which the Consolidated Investment Funds sold the security short) or a loss (which theoretically could be unlimited in size) will be settled upon termination of a short sale.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Options Contracts

The Partnership and the Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership or the Consolidated Entities purchase (write) an option, an amount equal to the premium paid (received) by the entity is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the Partnership or the Consolidated Entities enter into a closing transaction), the entity realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership or the Consolidated Entities purchasing a security at a price different from the current market value.

The Partnership and the Consolidated Entities are exposed to counterparty risk from the potential that a seller of an option contract does not sell or purchase the underlying asset as agreed under the terms of the option contract. The maximum risk of loss from counterparty risk to the Partnership and the Consolidated Entities is the greater of the fair value of its open option contracts or the premiums paid to purchase the open option contracts. The Partnership and the Consolidated Entities consider the credit risk of the intermediary counterparties to its option transactions in evaluating potential credit risk.

Margin Transactions

To obtain more investable cash, the Consolidated Entities may use various forms of leverage including purchasing securities on margin. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2016. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. At December 31, 2016, the Consolidated Investment Funds had withdrawals payable of \$68.2 million.

Foreign Currency Transactions

The Partnership's subsidiaries HCM Singapore and HCM Korea use Singapore dollars and Korean won, respectively, as their functional currency. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2016. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the Consolidated Statement of Income.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The Consolidated Entities do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments* on the Consolidated Statement of Income.

Life Settlement Contracts

One of the Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of *Purchase of investments* and *Proceeds from dispositions of investments* on the Consolidated Statement of Cash Flows. At December 31, 2016, the Consolidated Investment Fund was invested in 14 policies, which had a total face value of approximately \$155.1 million and a fair value of \$23.8 million.

Financing

The Partnership and its Consolidated Entities may finance the acquisition of its investments in securities and loans through financing arrangements. The Partnership and its Consolidated Entities recognize interest expense on all borrowings on the accrual basis in the Consolidated Statement of Income.

Financial Instruments

The Partnership and its Consolidated Entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable, withdrawals payable, debt and notes payable, due to brokers, investment liabilities and accrued liabilities approximate their fair values. For fair value of investment, see Note 5.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Recently Issued Accounting Standards and Interpretations

In August 2016, the FASB issued Accounting Standards Update 2016-15, Statement of cash flows – Classification of certain cash receipts and cash payments (Topic 230). The amendments in this Update apply to all reporting entities. This Accounting Standards Update addresses the following eight specific cash flow issues: Debt prepayment or debt extinguishment costs; settlement of zero-coupon debt instruments or other debt instruments with coupon interest rates that are insignificant in relation to the effective interest rate of the borrowing; contingent consideration payments made after a business combination; proceeds from the settlement of insurance claims; proceeds from the settlement of corporate-owned life insurance policies (COLIs) (including bank-owned life insurance policies (BOLIs)); distributions received from equity method investees; beneficial interests in securitization transactions; and separately identifiable cash flows and application of the predominance principle. ASU 2016-15 is effective for annual reporting periods in fiscal years that begin after December 15, 2016. This statement is not expected to have a material impact on the Partnership's consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

In October 2016, the FASB issued Accounting Standards Update 2016-17 – Consolidation (Topic 810). The Board is issuing this Accounting Standards Update to amend the consolidation guidance on how a reporting entity that is the single decision maker of a variable interest entity (VIE) should treat indirect interests in the entity held through related parties that are under common control with the reporting entity when determining whether it is the primary beneficiary of that VIE. Under the amendments, a single decision maker is not required to consider indirect interests held through related parties that are under common control with the single decision maker to be the equivalent of direct interests in their entirety. Instead, a single decision maker is required to include those interests on a proportionate basis consistent with indirect interests held through other related parties. The amendments are effective for the annual period ending after December 15, 2016. This statement is not expected to have a material impact on the Partnership's consolidated financial statements.

In November 2016, the FASB issued Accounting Standards Update 2016-18, Statement of cash flows – Restricted cash (Topic 230). The amendments in this Update apply to all reporting entities that have restricted cash or restricted cash equivalents and are required to present a statement of cash flows under Topic 203. The amendments in this Update require that a statement of cash flows explain the change during the period in the total of cash, cash equivalents, and amounts generally described as restricted cash or restricted cash equivalents. Therefore, amounts generally described as restricted cash and restricted cash equivalents should be included with cash and cash equivalents when reconciling the beginning-of-period and end-of-period total amounts shown on the statement of cash flows. ASU 2016-18 is effective for annual reporting periods in fiscal years that begin after December 15, 2016. This statement is not expected to have a material impact on the Partnership's consolidated financial statements.

3. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2016:

(in thousands)

Leasehold improvements	\$	7,192
Buildings		2,595
Furniture and fixtures		2,793
Computer and equipment		2,403
Computer software		297
Accumulated depreciation		(8,533)
	\$	<u>6,747</u>

Depreciation expense in 2016 totaled approximately \$1.4 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

4. Investments

Detailed below is a summary of the Partnership and its Consolidated Entities' investments at December 31, 2016:

(in thousands)

	Amortized Cost/Cost	Fair Value
Common equity securities	\$ 552,694	\$ 730,194
Asset-backed securities	178,094	120,678
Floating rate syndicated bank loans	142,041	54,745
Closed-end mutual funds	85,845	74,731
Participation interests	28,500	27,348
Limited partnership interests	18,806	24,630
Life settlement contracts	57,638	23,826
LLC interests	21,496	18,904
Rights & warrants	21,931	8,768
Options contracts	3,500	6,463
Real Estate Investment Trusts	4,793	5,080
Corporate bonds	88,007	1,943
Preferred equity	81	600
Total investments	<u>\$ 1,203,426</u>	<u>\$ 1,097,910</u>
	Proceeds	Fair Value
Securities sold, not yet purchased	<u>\$ (138,589)</u>	<u>\$ (146,792)</u>

5. Fair Value of Financial Instruments

Fair Value Measurement

U.S. GAAP defines fair value as the price an entity would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants as of the measurement date. The standard requires fair value measurement techniques to reflect the assumptions market participants would use in pricing an asset or liability and, where possible, to maximize the use of observable inputs and minimize the use of unobservable inputs. It also establishes the following hierarchy that prioritizes the valuation inputs into three broad levels:

- Level 1 – Valuation based on unadjusted quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Entities have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active that are reflective of recent market transactions; or (c) models in which all significant inputs are observable, either directly or indirectly.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Entities use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being reclassified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates. Whenever possible, the Partnership and its Consolidated Entities use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Entities develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

The Partnership has established policies, as described above, processes and procedures to ensure that valuation methodologies for investments and financial instruments that are categorized within all levels of the fair value hierarchy are fair and consistent. A Pricing Committee has been established to provide oversight of the valuation policies, processes and procedures, and is comprised of various personnel from the Partnership. The Pricing Committee meets monthly to review the proposed valuations for investments and financial instruments. The Pricing Committee is responsible for establishing the valuation policies and evaluating the overall fairness and consistent application of those policies.

As of December 31, 2016, the Partnership and its Consolidated Entities' investments consisted primarily of common equity securities, asset-backed securities, floating rate syndicated bank loans, closed-end mutual funds, preferred equity, participation interests, limited partnership interests, life settlement contracts, LLC interests, rights and warrants, option contracts, and corporate bonds. In addition, the Consolidated Entities engage in short sale transactions. The majority of these financial instruments are not listed on national securities exchanges and management is required to use significant judgment to estimate their values.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Equity Investments

Publicly traded equities are valued at the closing price at the date of the financial statements. The fair value of equity investments that are not traded on national exchanges or through real-time quotation services are derived from methodologies that provide appropriate fair value estimates. Equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

Private Equity Investments

The Partnership and Consolidated Entities hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Partnership and Consolidated Entities will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publicly available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances. Private equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Private equity investments that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

The Consolidated Entities also invest in warrant securities of publicly-traded companies. The fair value of these investments is based on an option pricing model. The option model bases warrant value on a number of factors including underlying equity price as of the valuation date, strike price, exercise date, time to expiration and volatility. Warrant investments that have observable volatility are classified as Level 2 assets. Warrant investments where volatility inputs are not observable are valued using an estimated volatility input, and are classified as Level 3 assets.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Asset-Backed Securities

The Consolidated Entities invest in a variety of asset-backed securities. Asset-backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Entities generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Entities evaluate the results based on visible market activity and market research. When appropriate, the Consolidated Entities may apply other techniques based on a specific asset's characteristics. Asset-backed securities with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Asset-backed securities that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Debt Securities

The Partnership and Consolidated Entities invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Partnership and Consolidated Entities first seek to obtain reliable market quotes from other parties dealing in the specific asset. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Loans and bonds that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Absent both a reliable market quote and third-party pricing service date, the Partnership and Consolidated Entities may use various models to establish an estimated exit price. These investments are classified as Level 3 assets. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Life Settlement Contracts

Life Settlement contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. Management generally utilizes an independent third party firm to perform these calculations and provide the relevant inputs. Management evaluates the results based on visible market activity and market research. Since these inputs are not readily observable, these contracts are classified as Level 3 assets.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

At December 31, 2016, the Consolidated Entities' investments in life settlement contracts consisted of the following:

(U.S. dollars in thousands, except number of policies)

Remaining Life Expectancy (in years)	Number of Policies	Face Value	Fair Value
2-3	-	\$ -	\$ -
3-4	1	10,000	3,154
4-5	1	5,000	1,514
Thereafter	12	140,079	19,158
Total	14	\$ 155,079	\$ 23,826

Options Contracts

The Partnership and its Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership and its Consolidated Entities purchase (writes) an option, an amount equal to the premium paid (received) by the purchaser is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the purchaser enters into a closing transaction), the purchaser realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership and its Consolidated Entities purchasing a security at a price different from the current market value.

Limited Partnership and LLC Interests

The Partnership and its Consolidated Entities hold limited partnership and LLC interests in various entities. These assets are valued as the net asset value of the limited partnership interests because the entities utilize fair value accounting for their own financial statements. These interests are classified as Level 3 assets.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Entities investments and derivatives at December 31, 2016 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2016:

(in thousands)

	Level 1	Level 2	Level 3	Total Fair Value at 12/31/16
Assets				
Common equity securities	\$ 286,369	\$ 326,665	\$ 117,160	\$ 730,194
Asset-backed securities	-	112,455	8,223	120,678
Floating rate syndicated bank loans	-	42	54,703	54,745
Closed-end mutual funds	74,731	-	-	74,731
Participation interests	15,368	-	11,980	27,348
Limited partnership interests	-	-	24,630	24,630
Life settlement contracts	-	-	23,826	23,826
LLC interests	-	676	18,228	18,904
Rights & warrants	702	652	7,414	8,768
Options	6,463	-	-	6,463
Real Estate Investment Trusts	1,039	4,041	-	5,080
Corporate bonds	-	1,943	-	1,943
Preferred equity	600	-	-	600
Total	\$ 385,272	\$ 446,474	\$ 266,164	\$ 1,097,910
Liabilities				
Common stock & Options sold short	\$ 146,792	\$ -	-	\$ 146,792

The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement. The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2016:

(in thousands)

	Total Fair Value at December 31, 2015	Purchases	Sales and Maturities	Restructures	Transfers Into Level 3	Net Realized Gains / (Losses)	Net Unrealized Gains / (Losses)	Total Fair Value at December 31, 2016
Common equity securities	\$ 94,654	\$ 364	\$ (50,925)	\$ 49,361	\$ -	\$ 4,397	\$ 19,309	\$ 117,160
Floating rate syndicated bank loans	81,512	7,267	(21,984)	-	-	9,370	(21,462)	54,703
Limited partnership interests	5,731	6,921	(20,839)	-	31,563	1,714	(461)	24,630
Life settlement contracts	22,528	6,862	(5,000)	-	-	940	(1,504)	23,826
LLC interests	19,322	234	(84)	-	-	(95)	(1,149)	18,228
Participation interests	-	13,333	(1,353)	-	-	-	-	11,980
Asset-backed securities	3,885	5,250	(2,726)	-	693	313	808	8,223
Rights & w arrants	6,513	-	-	-	-	-	901	7,414
Preferred equity	18	-	-	-	-	-	(18)	-
Corporate bonds	-	-	-	-	1,094	(19,837)	18,743	-
	\$ 234,163	\$ 40,231	\$ (102,910)	\$ 49,361	\$ 33,350	\$ (3,198)	\$ 15,167	\$ 266,164

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to changes in observable pricing inputs as compared to the prior year. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2016.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

All net realized and unrealized gains and losses in the tables above are reflected in the accompanying Consolidated Income Statement. Approximately \$17.3 million of the net unrealized gains presented in the table above relate to investments held as of December 31, 2016.

Transfers out of Level 3 are recognized at the beginning of the period. The transfers out of Level 3 at December 31, 2016 were due to changes in observable pricing inputs as compared to the prior year.

The following page includes a summary of significant unobservable inputs used in the fair valuations of assets and liabilities categorized within Level 3 of the fair value hierarchy.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

(Ending balance in thousands)

Category	Ending Balance at 12/31/2016	Valuation Technique	Unobservable Inputs	Input Value(s)
Common equity securities	\$ 117,160	Multiples Analysis	Multiple of EBITDA Discount for Lack of Marketability	2.5x - 8.25x 15 - 25%
		Discounted Cash Flow	Multiple of Revenue Discount Rate Terminal Multiple Minority Discount	0.4x - 0.5x 7.5 - 27.5% 2.2x - 7.5x 20%
		Bid Indications	N/A	N/A
		Appraisal	N/A	N/A
Bank loans	54,703	Multiples Analysis	Multiple of EBITDA Multiple of Revenue	3.0x - 4.0x 0.4x - 0.5x
		Escrow Recovery Analysis	Discount Rate	11%
		Adjusted Appraisal	Minority Discount	25%
		Bid Indications	N/A	N/A
		Discounted Cash Flow	Discount Rate Terminal Multiple Spread Adjustment	22% 2.5x 0.5 - 7.4%
Limited partnership interests	24,630	Net Asset Value of Underlying Assets and Liabilities	Various models including liquidation analysis, and third-party pricing vendor	N/A
Life settlement contracts	23,826	Net Asset Value of Underlying Assets, based on third-party pricing vendor	Discount Rate	16 - 18%
LLC interests	18,228	Third-Party Pricing Vendor	N/A	N/A
		Transaction Price	N/A	N/A
		Appraisal	N/A	N/A
Participation interests	11,980	Net Asset Value of Underlying Assets	N/A	N/A
Asset-backed securities	8,223	Third-Party Pricing Vendor	N/A	N/A
		Net Asset Value of Underlying Assets and Liabilities	N/A	N/A
		Discounted Cash Flow	Discount Rate	21%
Rights & w warrants	7,414	Discounted Cash Flow	Discount Rate Terminal Multiple Minority Discount	12 - 15% 7.5x 20%
		Multiples Analysis	Multiple of EBITDA Discount for Lack of Marketability	7.25x - 8.25x 25%
Total	\$ 266,164			

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

6. Securities Sold under Agreements to Repurchase

Transactions involving securities sold under agreements to repurchase are treated as collateralized financial transactions, and are recorded at their fair market values. In addition, interest earned on the securities is included in interest receivable, and interest accrued on amounts borrowed is included in interest payable. For the year ended December 31, 2016, Multi Strategy Master expensed approximately \$0.8 million for interest charged on the amounts borrowed for repurchase agreements.

In connection with transactions in agreements to repurchase, it is Multi Strategy Master's policy that its counterparty take possession of the underlying collateral securities, the fair value of which exceeds the principal amount of the agreements to repurchase, including accrued interest, at all times. If the counterparty defaults under agreements to resell, and the fair value of the collateral declines, the realization of the collateral by Multi Strategy Master may be delayed or limited.

To reduce counterparty credit risk with respect to repurchase agreements, Multi Strategy Master has entered into a master repurchase agreement, which allows Multi Strategy Master to make (or to have an entitlement to receive) a single net payment in the event of default (close-out netting) for outstanding payables and receivables with respect to repurchase agreements with the counterparty.

The master repurchase agreement includes credit related contingent features which allow the counterparty to terminate the agreement prior to maturity in the event Multi Strategy Master's net assets decline by a stated percentage or Multi Strategy Master fails to meet the terms of the agreement, which would cause the Master Partnership to accelerate payment of any net liability owed to the counterparty.

For financial reporting purposes, Multi Strategy Master does not offset repurchase agreement assets and liabilities that are subject to netting arrangements in the Consolidated Balance Sheet. Bankruptcy or insolvency laws of a particular jurisdiction may impose restrictions on or prohibitions against the right of offset in bankruptcy, insolvency or other events.

Collateral terms are contract specific for repurchase agreements. For repurchase agreements traded under master repurchase agreements, the collateral requirements are typically calculated by netting the mark to market amount for each transaction under such agreement and comparing that to the value of any collateral currently pledged by Multi Strategy Master or the counterparty.

For financial reporting purposes, cash collateral that has been pledged to cover obligations of Multi Strategy Master, if any, is reported in due to/from brokers on the Consolidated Balance Sheet. Generally, the amount of collateral due from or to a party must exceed a minimum transfer amount threshold before a transfer has to be made. To the extent amounts due to Multi Strategy Master from its counterparties are not fully collateralized, contractually or otherwise, Multi Strategy Master bears the risk of loss from counterparty non-performance.

At December 31, 2016, securities with a fair value of approximately \$64.9 million, which are included in investments in securities on the Consolidated Balance Sheet, were pledged to collateralize securities sold under agreements to repurchase.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The following table presents, by counterparty, Multi Strategy Master's liabilities net of the related collateral pledged by Multi Strategy Master at December 31, 2016:

(U.S. dollars in thousands)

Counterparty	Description	Class of Related Collateral	Gross Value of Liability	Net Amount Due to Counterparty	Financial Instruments	Cash Collateral Pledged	Net Exposure After Collateral	Interest Rate	Maturity
Mizuho Securities USA Inc.	Repurchase Agreement	Asset-backed securities	\$ 30,785	\$ 30,785	\$ (30,785)	\$ -	\$ -	1.45%	11/1/2026
Mizuho Securities USA Inc.	Repurchase Agreement	Asset-backed securities	11,329	11,329	(11,329)	-	-	2.45%	10/14/2022
Mizuho Securities USA Inc.	Repurchase Agreement	Asset-backed securities	3,039	3,039	(3,039)	-	-	2.45%	5/1/2027
Mizuho Securities USA Inc.	Repurchase Agreement	Asset-backed securities	2,901	2,901	(2,901)	-	-	2.45%	11/1/2026
Mizuho Securities USA Inc.	Repurchase Agreement	Asset-backed securities	2,660	2,660	(2,660)	-	-	2.00%	11/1/2026
			<u>\$ 50,714</u>	<u>\$ 50,714</u>	<u>\$ (50,714)</u>				

7. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its Consolidated Entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The Consolidated Entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the Consolidated Entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Entities due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Entities' exposure to market risk is affected by a number of macroeconomic factors, such as interest rates, availability of credit, inflation rates, economic uncertainty and changes in laws and regulations. These factors may affect the level and volatility of securities prices and the liquidity of the Partnership and its Consolidated Entities investments. Volatility or illiquidity could impair the Partnership and its Consolidated Entities performance or result in losses. The Partnership and its Consolidated Entities may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets. The performance of life settlement contracts may be adversely impacted by the under estimation of mortality and other rates.

Credit Risk

Credit risk is the potential loss the Partnership and its Consolidated Entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the Consolidated Entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the Consolidated Entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Liquidity Risk

The Consolidated Entities' limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Entities nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the Consolidated Entities. Consolidated Entities could be materially affected by the liquidity, credit and other events of the Partnership.

High Yield Bonds and Loans

The Partnership and its Consolidated Entities' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Entities' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

When the Partnership and its Consolidated Entities purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Entities have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Entities may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

Debt Obligations

The Partnership and its Consolidated Entities' investment portfolio consists of collateralized loan obligations that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. Because of the inherent uncertainty of these investments, the Partnership's best estimates may differ significantly from values that would have been used had broader market for the investments existed.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Entities invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Entities' investments. However, the Consolidated Entities' portfolios could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Entities. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Entities to losses that are disproportionate to market movements as a whole.

At December 31, 2016, the Consolidated Entities' investments were predominantly concentrated in the United States and Cayman Islands.

Exit Difficulties

The Partnership and its Consolidated Entities cannot assure investors that it will be able to exit its investments by sale or other disposition at attractive prices, if at all. The mergers and acquisitions and public securities markets are highly cyclical, which means that the Consolidated Entities' investments, even its best performing investments, may be illiquid for extended periods of time despite the Consolidated Entities' efforts to identify attractive exit opportunities. Additionally, a significant portion of the Consolidated Entities' assets at any time will likely consist of debt obligations and other securities that are thinly-traded, for which no market exists and/or are restricted as to their transferability under applicable law and/or documents governing particular transactions of the Consolidated Entities. In some cases, the Consolidated Entities may be unable to realize an investment prior to the date on which the Consolidated Entities are scheduled to terminate and/or have to sell or otherwise dispose of one or more investments on disadvantageous terms as a result of the Consolidated Entities' termination, or distribute such investments in kind.

Custody Risk

The clearing operations for the Partnership and its Consolidated Entities are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Entities' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Entities may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Entities might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Leverage Risk

The Consolidated Entities may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Entities' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Entities. If the value of the Consolidated Entities' securities fall below the margin level required by a counterparty, additional margin deposits would be required. If the Consolidated Entities are unable to satisfy a margin call, the counterparty could liquidate the Consolidated Entities' positions in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Entities to incur significant losses. In addition, to the extent the Consolidated Entities have posted excess collateral for margin transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Entities' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Entities. In addition, because the use of leverage allows the Consolidated Entities to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Entities may lose in the event of adverse price movements is high in relation to the amount of their investment.

In the event of a sudden drop in the value of the Consolidated Entities' assets, the Consolidated Entities may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Entities may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Entities have the ability to apply discretionary margin, haircut, and financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2016, the Consolidated Entities' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Litigation Risk

The Partnership and its Consolidated Entities are periodically subject to legal actions arising from the ordinary course of business. The ultimate outcome of these cases is inherently uncertain and could result in additional losses to the Partnership and/or its Consolidated Entities. Refer to Note 15 for a discussion of open litigation.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

8. Related Party Transactions

Investments Under Common Control

Certain members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. As of December 31, 2016, the Partnership and its Consolidated Entities held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 582
Carey Holdings, Inc.	Common Stock	5,368
CCS Medical, Inc.	Loan	5,836
Cornerstone Healthcare Group Holding, Inc.	Common Equity	43,142
Euramax International Holdings B.V.	Warrants	1,108
Euramax International Holdings B.V.	Term Loan	39,124
Euramax International Holdings B.V.	Common Stock	13,454
Highland Energy MLP Fund	Mutual Fund	2,290
Highland Floating Rate Opportunities Fund	Mutual Fund	733
Highland Global Allocation Fund	Mutual Fund	2,150
Highland Long/Short Equity Fund	Mutual Fund	263
Highland Long/Short Healthcare Fund	Mutual Fund	2,423
Highland Merger Arbitrage Fund	Mutual Fund	1,177
Highland Opportunistic Credit Fund	Mutual Fund	4,857
JHT Holdings Inc.	Revolving Term Loan	1,923
JHT Holdings Inc.	Common Stock	3,349
Metro-Goldwyn-Mayer, Inc.	Common Stock	311,225
NexPoint Credit Strategies Fund	Mutual Fund	15,029
NexPoint Multifamily Capital Trust, Inc.	REIT	4,041
NexPoint Opportunistic Credit Fund	Mutual Fund	101
NexPoint Real Estate Strategies Fund	Mutual Fund	1,039
NexPoint Residential Trust, Inc.	REIT	54,029
Romacorp Restaurant Holdings, Inc.	Common Equity	336
Trussway Industries, Inc.	LLC Units	51,482
Turtle Bay Holdings, LLC	LLC Units	13,500

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Certain investments are issued and managed by affiliates of the Partnership. These investments are subject to the same valuation policies and procedures as similar investments within the same level of the fair value hierarchy. As of December 31, 2016, the Partnership and the Consolidated Entities held the following investments that were issued and managed by affiliates of the Partnership:

(in thousands)

Issuer	Type of Investment	Fair Value
ACIS 2013-2A	Asset backed debt	\$ 31,162
ACIS 2013-2A	Asset backed equity	23,975
ACIS 2014-5A	Asset backed debt	42,792
ACIS 2015-6A	Asset backed equity	4,771
BB Votorantim Highland Infrastructure LLC	Common equity	1,534
Highland Energy MLP Fund	Mutual fund shares	2,290
Highland Floating Rate Opportunities Fund	Mutual fund shares	733
Highland Global Allocation Fund	Mutual fund shares	2,150
Highland Merger Arbitrage Fund	Mutual fund shares	1,177
Highland Opportunistic Credit Fund	Mutual fund shares	4,857
Highland Park CDO, Ltd. - 1A	Asset backed debt tranche	1,572
Highland Park CDO, Ltd. - 1X	Asset backed equity	1,048
Highland Prometheus Fund	Partnership Interest	912
Highland Long/Short Equity Fund	Mutual fund shares	263
Highland Long/Short Healthcare Fund	Mutual fund shares	2,423
NexPoint Credit Strategies Fund	Mutual fund shares	15,029
NexPoint Multi Family Capital Trust	REIT	4,041
NexPoint Opportunistic Credit Fund	Closed-end mutual fund shares	101
NexPoint Real Estate Strategies Fund	Closed-end mutual fund shares	1,039
Highland Acquisition Corp	Private shares	25
PAMCO 1997 - 1A	Asset backed debt tranche	230
Rockwall Investors Corp.	Asset backed equity	2,123
Westchester CLO, Ltd	Asset backed equity	4,127

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2016, approximately \$7.8 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in *Other Assets* in the accompanying Consolidated Balance Sheet.

Accounts Held with Related Party

During the year the Partnership and its Consolidated Entities maintained accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2016, balances in the accounts were approximately \$15.3 million, a portion of which exceeds Federal deposit insurance limits.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$8.2 million. At December 31, 2016, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$66.3 million and \$45.2 million, respectively.

Notes and Other Amounts Due from Affiliates

During the year ended December 31, 2016, Highland Capital Management Fund Advisors, L.P. ("HCMFA") issued a promissory note to the Partnership in the amount of \$2.3 million. The note accrues interest at a rate of 2.62%, the mid-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2016 total interest and principal due on outstanding promissory notes was approximately \$6.1 million and is payable on demand. The Partnership will not demand payment on amounts owed prior to May 31, 2018. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2016, NexPoint Advisors, L.P. ("NexPoint") received \$3.9 million of principal advances on their outstanding revolving note with the Partnership. The revolving note accrues interest at a rate of 6.0%. As of December 31, 2016 total interest and principal due on outstanding promissory and revolving notes was approximately \$25.9 million and is payable on demand. The Partnership will not demand payment on amounts owed prior to May 31, 2018. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2016, HCRE Partners, LLC ("HCRE") did not issue any new promissory notes to the Partnership. All outstanding promissory notes accrue interest at a rate of 8.0%. As of December 31, 2016 total interest and principal due on outstanding promissory notes was approximately \$6.1 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2016, Highland Capital Management Services, Inc. ("HCMSI") issued promissory notes to the Partnership in the aggregate amount of \$21.6 million. The notes accrue interest at rates ranging from 2.18% - 2.65%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2016 total interest and principal due on outstanding promissory notes was approximately \$22.8 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2016, James Dondero ("Dondero") issued promissory notes to the Partnership in the aggregate amount of \$14.8 million. The notes accrue interest at rates ranging from 1.95% - 2.25%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2016 total interest and principal due on the promissory notes was approximately \$14.9 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2016, Mark Okada ("Okada") issued a promissory note to the Partnership in the aggregate amount of \$1.3 million. The note accrues interest at a rate of 2.25%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2016 total interest and principal due on the promissory note was approximately \$1.3 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

During the year ended December 31, 2016, the Partnership purchased a promissory note due from The Dugaboy Investment Trust ("Dugaboy") in the aggregate amount of \$23.4 million. The note accrues interest at a rate of 2.75% per annum. As of December 31, 2016 total interest and principal due on the promissory note was approximately \$23.4 million and is payable in full on October 30, 2036. The fair value of the Partnership's outstanding notes receivable approximates its carrying value of the notes receivable.

On December 21, 2015, the Partnership entered into a contribution agreement (the "Contribution Agreement") with an affiliated trust. Pursuant to the Contribution Agreement, a note (the "Note Receivable") in the amount of \$63.0 million was due to the Partnership. The Note Receivable will mature on December 21, 2030. The Note Receivable accrues interest at a rate of 2.61% per annum. Accrued interest is paid-in-kind, with principal receipts occurring pursuant to a note amortization schedule, with such annual receipts commencing December 21, 2019. As of December 31, 2016 total interest and principal due on the Note Receivable was approximately \$64.6 million.

Services Performed by or on Behalf of an Affiliate

In March 2007, Highland Capital of New York, Inc. a New York corporation ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. For the year ended December 31, 2016, total marketing fee expense charged to the Partnership by Highland New York was approximately \$4.3 million and as of December 31, 2016, amounts owed to Highland New York for services rendered was approximately \$0.4 million.

Effective December 15, 2011, the Partnership commenced performing services on behalf of HCMFA, a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fee charged by the Partnership to HCMFA was approximately \$2.5 million and as of December 31, 2016, there were no amounts owed to the Partnership by HCMFA for services rendered.

Effective July 29, 2010, the Partnership commenced performing services on behalf of Falcon E&P Opportunities GP, LLC. ("Falcon"), a Delaware limited liability company and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fee charged by the Partnership to Falcon was approximately \$0.2 million and as of December 31, 2016, no amounts were owed to the Partnership by Falcon for services rendered.

Effective January 1, 2016, pursuant to the Second Amended and Restated Sub-Advisory Agreement and the Third Amended and Restated Shared Services Agreement dated July 29, 2016, the Partnership continued performing services on behalf of Acis Capital Management, L.P. ("Acis"), a Delaware limited partnership and registered investment advisor. Subadvisory services include investment advisory services and shared services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fees charged by the Partnership to Acis for shared services and subadvisory fees were approximately \$5.1 million and \$6.8 million, respectively. As of December 31, 2016, amount owed to the Partnership by Acis was approximately \$0.5 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Effective January 1, 2013, the Partnership commenced performing services on behalf of NexPoint. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fee charged by the Partnership to NexPoint was approximately \$0.6 million and as of December 31, 2016, no amounts were owed to the Partnership by NexPoint for services rendered.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank Capital, Inc. ("NexBank Capital"), financial services company. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fee charged by the Partnership to NexBank Capital was approximately \$0.2 million and as of December 31, 2016, \$0.1 million was owed to the Partnership by NexBank Capital for services rendered.

Effective September 24, 2013, the Partnership commenced performing services on behalf of NexBank SSB, ("NexBank"), a Texas savings bank. Services include investment advisory services. The Partnership charges a fee for the services performed. For the year ended December 31, 2016, the total fee charged by the Partnership to NexBank was approximately \$1.5 million and as of December 31, 2016, \$0.5 million was owed to the Partnership by NexBank for services rendered.

Effective April 1, 2015, the Partnership commenced performing services on behalf of NexPoint Real Estate Advisors, L.P. ("NREA"). Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. NREA is charged a fee for the services provided. For the year ended December 31, 2016, the total fee charged to NREA by the Partnership was approximately \$0.6 million and as of December 31, 2016, amounts owed by NREA to the Partnership for services rendered were approximately \$0.9 million.

Investment liability

On January 28, 2016, the Partnership entered into a participation agreement with Cornerstone Healthcare Group Holding, Inc. ("Cornerstone") for securities purchased and held on their behalf which had a value of \$8.0 million as of the transaction date. The fair value of the Agreement will fluctuate with the fair value of the held securities, throughout the term of the Agreement. As of December 31, 2016 the fair value of the securities were \$8.6 million.

On December 28, 2016, the Partnership entered into a purchase and sale agreement with The Get Good Nonexempt Trust ("Get Good"). In consideration for a note receivable from an affiliate, the Partnership sold or participated certain investments that it already held, with the participated investments carrying an aggregate market value of \$21.3 million as of the date of the transaction. The fair value of the Agreement will fluctuate with the fair value of the securities, throughout the term of the Agreement. As of December 31, 2016 the fair value of the participated investments was \$18.7 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

9. Notes Receivable

On October 12, 2016, the Partnership entered into a Purchase and Sale agreement (the "Agreement") with an unaffiliated registered fund. Pursuant to the Agreement, the Partnership sold, transferred and assigned to the fund, and the fund purchased and accepted from the Partnership, all of the Partnership's principal and accrued interest in various outstanding promissory notes (the "Notes") in the aggregate amount of \$6.4 million. The Notes accrue interest at a rate of 7.85% per annum. As of December 31, 2016 total interest and principal due on the Notes was approximately \$6.5 million.

10. Debt and Notes Payable

Promissory Note

On December 31, 2014, the Partnership entered in to a promissory note with an investor in the amount of \$18.6 million, in exchange for 100% of its LP interest in Highland Multi Strategy Credit Fund, L.P. The Partnership must pay one-third of the initial note amount, plus accumulated interest on each of the first three anniversaries of the note. The promissory note will mature on December 31, 2017. The promissory note accrues interest at a rate of 3.00% per annum. The promissory note is collateralized by limited partnership interest in Multi Strategy Master. As of December 31, 2016 the remaining principal payable on the promissory note was \$6.2 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

On August 17, 2015, the Partnership entered in to a promissory note with Frontier State Bank in the amount of \$9.5 million. The promissory note will mature on August 17, 2018. The promissory note accrues interest at the 3 month LIBOR rate plus 4.75%, adjusted each date of change, per annum. Accrued interest shall be paid quarterly. The promissory note is collateralized by shares of voting common stock of MGM Holdings, Inc. As of December 31, 2016 the remaining principal payable on the promissory note was \$6.9 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

On October 7, 2016, the Partnership entered in to a promissory note with Acis in the amount of \$12.7 million. The Partnership must make certain payments of the initial note amount, plus accumulated interest on May 31 of each year, until maturity. The promissory note will mature on May 31, 2019. The promissory note accrues interest at a rate of 3.00% per annum. As of December 31, 2016 the remaining principal payable on the promissory note was \$12.7 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

On August 25, 2015, Highland Select Equity Fund, L.P. ("Select") entered in to a promissory note with Dugaboy in the amount of \$1.0 million. The promissory note accrues interest at a rate of 2.82%, the long-term Applicable Federal Rate, compounded annually. The accrued interest and principal of the promissory note is due and payable on demand. As of December 31, 2016 the remaining principal payable on the promissory note was \$1.0 million. The fair value of Select's outstanding notes payable approximates the carrying value of the notes payable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

On December 5, 2016, Select entered in to Stock Purchase Agreements with two counterparties for shares of Trussway Industries ("Trussway"), in exchange for promissory notes in the aggregate amount of \$15.4 million, plus in the event of a sale of Trussway on or prior to June 1, 2017, 50% of the excess of the price per share over the closing date price per share. The promissory notes accrue interest at a rate of 2.07%, the long-term Applicable Federal Rate, compounded annually. Select must pay one-twenty-fifth of the initial note amounts, plus any additional principal attributable to the sale of Trussway, along with accumulated interest on an annual basis. The promissory notes will mature on December 5, 2041. As of December 31, 2016 the remaining principal payable on the promissory notes was \$15.4 million. The fair value of Select's outstanding notes payable approximates the carrying value of the notes payable.

On August 29, 2016, Maple Avenue Holdings, LLC ("Maple") entered in to a promissory note with Great Southern Bank in the amount of \$3.9 million. Maple must pay principal and accrued interest installments on a monthly basis until maturity. The promissory note will mature on September 10, 2041. The promissory note accrues interest at a rate of 3.26% per annum. As of December 31, 2016 the remaining principal payable on the promissory note was \$3.8 million. The fair value of Maple's outstanding notes payable approximates the carrying value of the notes payable.

11. Due to Broker

As of December 31, 2016 the due to broker balance of approximately \$171.6 million is payable to financing counterparties for margin transactions.

12. Commitments

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. The Partnership regularly co-invests in vehicles it advises. The amounts committed are within the Partnerships capacity to fund when capital is called. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, Consolidated statement of Income, or its liquidity. See Note 15.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Operating Leases

The Partnership has an operating lease and associated commitments related to its main office space. Future minimum lease payments under operating lease commitments with initial or noncancelable terms in excess of one year, at inception, are as follows:

(in thousands)

Years Ending December 31

2017	1,521
2018	1,521
2019	1,550
2020	1,566
2021	1,567
Thereafter	522
Total	<u>\$ 8,246</u>

Total rental expense of the Partnership and its Consolidated Entities for operating leases was approximately \$1.5 million for the year ended December 31, 2016.

13. Post Retirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. A new amendment became effective on January 1, 2011 in which a named participant was admitted to the plan and is eligible to earn benefit accrual. 2011 expense reflects a service cost charge for the value of the new participant's benefit earned during 2011.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2016 are reconciled in the tables below.

(in thousands)

Change in projected benefit obligation	2016
Benefit obligation at beginning of year	\$ 1,722
Service cost	5
Interest cost	67
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	657
Acquisition/(divestiture)	-
Benefits paid	(150)
Benefit obligation at end of year	\$ 2,301
Change in plan assets	2016
Fair value of plan assets at beginning of year	\$ 1,836
Actual return on plan assets	884
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(150)
Other increase/(decrease)	-
Fair value of plan assets at year end	\$ 2,570
Reconciliation of Funded Status	2016
Accumulated benefit obligation at end of year	\$ 2,301
Projected benefit obligation at end of year	2,301
Fair value of plan assets at end of year	2,570
Funded status at end of year	\$ 269

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The Partnership does not expect to contribute to the plan during 2016.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2016:

Discount rate	3.69%
Rate of compensation increase	N/A

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2016:

Discount rate	4.00%
Expected long-term return on plan assets	4.00%
Rate of compensation increase	N/A

As of December 31, 2016, there were no plan assets categorized as Level 3.

14. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2016, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2009 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2016.

Multi Strategy Master

For U.S. income tax purposes, Multi Strategy Master is treated as a pass-through entity, which means it is not subject to federal income taxes under current Internal Revenue Service guidelines. However, each investor may be individually liable for income taxes, if any, on its share of the partnership's net taxable income.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

Multi Strategy Master trades in senior secured syndicated bank loans for its own account and, as such, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The Partnership intends to conduct Multi Strategy Master business in such a manner that it does not constitute a U.S. trade or business, nor does it create a taxable presence in any of the jurisdictions in which the Partnership has offices.

Dividends as well as certain interest and other income received by Multi Strategy Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Multi Strategy Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2016, a minimal withholding tax liability of \$1.3 million is classified within accrued and other liabilities on the Consolidated Balance Sheet.

Multi Strategy Master applies authoritative guidance which requires management to determine whether a tax position Multi Strategy Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. As of December 31, 2016, a liability to account for uncertain tax positions of \$0.1 million is classified within accrued expenses within the Consolidated Balance Sheet. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2016.

Multi Strategy Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Multi Strategy Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2016, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2013 forward (with limited exceptions).

Restoration Onshore

Restoration Onshore is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of the Restoration Onshore's net taxable income. Interest, dividends and other income realized by Restoration Onshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Onshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Onshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2016. Restoration Onshore files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2016, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2013 forward (with limited exceptions).

Restoration Offshore

Restoration Offshore is a Cayman Islands exempted company. Under the current laws of the Cayman Islands, there is no income, estate, transfer, sales or other tax payable by Restoration Offshore. Restoration Offshore has elected to be treated as a corporation for U.S. tax purposes and files a protective 1120-F.

The General Partner intends to conduct the business of Restoration Offshore in such a way that Restoration Offshore's activities do not constitute a U.S. trade or business and any income or realized gains earned by Restoration Offshore do not become "effectively connected" with a trade or business carried on in the United States for U.S. federal income tax purposes.

Dividends as well as certain interest and other income received by the master partnership of Restoration Offshore from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by the master partnership of Restoration Offshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Offshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Offshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2016. As of December 31, 2016, the tax years that remain subject to examination by major tax jurisdictions under the statute of limitations is from the year 2013 forward (with limited exceptions).

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

15. Legal Proceedings

On July 15, 2008, Crusader Master, Highland Offshore Partners, CDO Master Fund, Multi Strategy Master, certain affiliates, and numerous external parties (collectively, the “Defendants”) were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida (“the Touse action”). The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. The Defendants believed they acted in good faith pursuant to the terms of the relevant agreements and appealed the decision. In February 2011, the District Court of Florida quashed the judgment against the Defendants and overturned the ruling that resulted in the Defendants recording the reserve. The plaintiffs appealed the ruling of the District Court, and the issue was sent to the Eleventh Circuit of Florida. On May 15, 2012, the Eleventh Circuit unexpectedly reversed the District Court’s ruling, and remanded the case back to the District Court for review. The last such case was heard by the US Supreme Court case on January 14, 2015. On June 23, 2015, the District Court remanded the case back to the Bankruptcy Court for a report and recommendations regarding the effects of certain settlements on the Plaintiff’s available damages. On April 1, 2016, the Bankruptcy Court issued its Report and Recommendations to the District Court. Briefing on the Report and Recommendations was completed in June 2016. On March 8, 2017, the District Court substantially adopted the Bankruptcy Court Report and Recommendations, which affirmed the Defendants’ liability. The case has now been retuned to the Eleventh Circuit for additional appeals. Based on the ruling, the Consolidated Entities recorded a combined reserve of approximately \$5.8 million as of December 31, 2016. This reserve is included in *Accrued and other liabilities* on the Consolidated Balance Sheet.

Multi Strategy Master and certain of its affiliates (collectively, the “UBS Defendants”) have respectively been named as defendants in two separate lawsuits filed by UBS Securities LLC and UBS AG, London Branch (collectively, “UBS Plaintiffs”) in the Supreme Court of the State of New York, New York County (the “Court”). In the lawsuits, the UBS Plaintiffs seek damages from the UBS Defendants and other entities relating to a warehouse facility formed for a proposed collateralized loan obligation, or CLO, transaction that was not completed. The UBS Plaintiffs seek monetary damages of approximately \$0.7 million, plus certain costs, fees and expenses. The UBS Plaintiffs also seek to unwind alleged fraudulent transfers involving the UBS Defendants. Although the UBS Plaintiffs have not pled a specific damages amount against the UBS Defendants, any eventual damages award would be subject to pre-judgment interest of 9% (accrued as of December 3, 2008) as well as post-judgment interest of 9% (accrued as of the date a judgment, if any, is entered against the UBS Defendants). Each of the UBS Defendants filed a separate motion to dismiss, both of which were denied. In addition, Multi Strategy Master filed a motion for summary judgment, which was heard by the Court on February 14, 2014. On March 11, 2014, the Appellate Division of the Supreme Court of the State of New York (First Department) (the “Appellate Court”) heard each of the UBS Defendants’ respective appeals of the Court’s denials of their respective motions to dismiss. The Court has not yet set a trial date. Though Multi Strategy Master continues to vigorously defend against the UBS Plaintiffs’ claims, at this time, the General Partner is unable to provide a reasonably probable estimate of the expected outcome.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

On July 16, 2013, Credit Suisse Securities (USA), LLC ("Credit Suisse") filed suit against Multi Strategy Master and other affiliates (the "Credit Suisse Defendants"). Credit Suisse's claims relate to several outstanding trades of debt tranches of Westgate Investments. On May 5, 2014, Credit Suisse moved for summary judgment on both the principal amount and statutory pre-judgment interest. The Court granted the motion on August 6, 2014, and issued judgment on September 11, 2014 in the amount of \$6.4 million in principal, plus \$3.4 million in interest, for a total of \$9.8 million. Multi Strategy Master continued to accrue interest based on the New York statutory rate through November 30, 2015. As of November 30, 2015, an additional \$0.7 million in interest had been accrued, for a total of \$4.1 million in interest. At November 30, 2015 total interest and principal liability of \$10.5 million had been accrued. On January 14, 2016, the Multi Strategy Master had reached settlement with Credit Suisse for payment of \$9.9 million in satisfaction and release of Credit Suisse's claims. The difference between the settlement amount and what was accrued at November 30, 2015, approximately \$0.5 million, was recognized as of December 31, 2015, bringing the total accrued liability down to the settlement amount. The Master Partnership made payments of approximately \$1.5 million on January 20, 2016, \$2.5 million on May 6, 2016, and \$5.9 million on August 8, 2016, in full settlement of the outstanding liability. As of December 31, 2016, Partnership had no liability recorded on the Consolidated Balance Sheet related to Credit Suisse.

In April 2012, the Partnership filed suit against a former employee for breach of contract, defamation and theft of trade secrets. The former employee filed a counterclaim with numerous, unrelated allegations. The Partnership refuted each allegation in detail. The former employee sought unspecified damages against the Partnership and certain affiliates. On February 6, 2014, the jury found the former employee breached his fiduciary duty to the Partnership. The jury found that neither the Partnership nor any of its employees had breached any duty, and awarded \$2.8 million to the Partnership. The jury also found that HERA owed \$2.6 million related to an employee retention plan. The court entered judgment on the verdict on July 11, 2014. On August 22, 2016, the Court of Appeals for the Fifth District of Texas (Dallas) affirmed the judgment against the former employee in favor of the Partnership in the amount of \$2.8 million plus post-judgment interest. The Partnership then sought to enforce the judgment. The former employee paid the Partnership \$3.1 million on December 14, 2016 in complete satisfaction of the outstanding judgment.

From time to time the Partnership is party to disputes with disgruntled former employees. One such matter involves a former employee that improperly recorded internal conversations in violation of the Partnership's internal policies and procedures and potentially certain criminal and regulatory provisions. The former employee has asserted counterclaims related to his time employed by the Partnership. The matter has been referred to arbitration and at this time, the General Partner is unable to provide a reasonably probable estimate of the expected outcome.

The Partnership is engaged in litigation with two groups of investors relating to the wind down and distribution of the remaining assets in Crusader and Credit Strategies funds. With respect to the Crusader fund, at this time, the General Partner is unable to provide a reasonably probable estimate of the expected outcome. With respect to the Credit Strategies fund, subsequent to year end a settlement was reached. Refer to Note 16 for additional discussion of settlement terms.

In addition to the legal actions that are discussed above, the Partnership is subject to other legal actions arising from the ordinary course of its business. The ultimate outcome of these other cases is inherently uncertain and could result in additional losses to the Partnership.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2016

16. Subsequent Events

Over the course of 2017 through the report date, the Partnership has distributed equity to its partners in the aggregate amount of \$18.3 million.

On January 5, 2017 the Partnership received a \$5.5 million pay down on the outstanding Contribution Agreement.

On May 12, 2017, the Partnership entered into an agreement, approved by the independent Redeemer Committee of the Credit Strategies Fund, whereby the Partnership and Highland New York paid the Credit Strategies Fund \$23.0 million in exchange for the remaining assets of the Credit Strategies Fund and releases from the on-going litigation between the Partnership and the Redeemer Committee. Related to this transaction and release of on-going litigation claims of the Partnership, Cornerstone Health Care Group, Inc., with the approval of a special committee of its independent directors, paid indemnification to the Partnership in the amount of \$17.4 million.

The Partnership has performed an evaluation of subsequent events through May 19, 2017, which is the date the consolidated financial statements were available to be issued, and has determined that there are no other material subsequent events that would require disclosure in the Partnership's consolidated financial statements.

Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Balance Sheet
December 31, 2016

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Assets				
Cash and cash equivalents	\$ 16,716	\$ 13,413	\$ -	\$ 30,129
Investments at fair value	148,034	949,876	-	1,097,910
Equity method investees	171,319	-	(171,319)	-
Management and incentive fees receivable	12,583	-	-	12,583
Due from brokers	-	892	-	892
Other assets	8,083	9,915	(5,089)	12,909
Notes and other amounts due from affiliates	172,671	-	-	172,671
Notes receivable	6,421	-	-	6,421
Fixed assets and leasehold improvements, net of accumulated depreciation of \$8,533	6,747	-	-	6,747
Total assets	\$ 542,574	\$ 974,096	\$ (176,408)	\$ 1,340,262
Liabilities and partners' capital				
Liabilities				
Accounts payable	\$ 4,417	\$ 26	\$ -	\$ 4,443
Securities sold, not yet purchased	-	146,792	-	146,792
Withdrawals payable	-	68,199	-	68,199
Due to brokers	29,505	143,136	(994)	171,647
Due to brokers for securities purchased, not yet settled	-	1,614	-	1,614
Accrued and other liabilities	36,960	9,973	(4,095)	42,838
Debt and notes payable	25,763	20,190	-	45,953
Investment liabilities	27,318	-	-	27,318
Total liabilities	123,963	389,930	(5,089)	508,804
Non-controlling interest	-	412,847	-	412,847
Commitments				
Partners' capital	418,611	171,319	(171,319)	418,611
Total liabilities and partners' capital	\$ 542,574	\$ 974,096	\$ (176,408)	\$ 1,340,262

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Statement of Income
Year Ended December 31, 2016

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Revenue:				
Management fees	\$ 52,599	\$ -	\$ -	\$ 52,599
Interest and investment income	2,750	33,449	(1,992)	34,207
Shared services fees	9,563	-	-	9,563
Incentive fees	8,151	-	-	8,151
Other income	2,392	1,750	-	4,142
Total revenue	75,455	35,199	(1,992)	108,662
Expenses:				
Compensation and benefits	36,160	967	-	37,127
Professional fees	8,758	2,274	-	11,032
Interest expense	2,478	3,283	-	5,761
Marketing and advertising expense	5,170	-	-	5,170
Bad debt expense	2,094	-	-	2,094
Depreciation and amortization	1,367	-	-	1,367
Investment and research consulting	829	-	-	829
Other operating expenses	7,334	6,935	(3,109)	11,160
Total expenses	64,190	13,459	(3,109)	74,540
Other income	10,779	-	-	10,779
Income before investment and derivative activities	22,044	21,740	1,117	44,901
Realized and unrealized gain from investments and derivatives:				
Net realized gain on investments and derivatives	63,605	185,347	(123,220)	125,732
Net change in unrealized loss on investments and derivatives	122,444	(200,093)	-	(77,649)
Total realized and unrealized gain from investments and derivatives	186,049	(14,746)	(123,220)	48,083
Net unrealized earnings from equity method investees	(168,737)	-	168,737	-
Net income	39,356	6,994	46,634	92,984
Net income attributable to the non-controlling interest	-	(53,628)	-	(53,628)
Net income attributable to Highland Capital Management, L.P.	\$ 39,356	\$ (46,634)	\$ 46,634	\$ 39,356

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2016

(in thousands)

Assets

Current assets:

Cash and cash equivalents	\$	16,716
Investments at fair value (cost \$258,209)*		282,863
Equity method investees		36,490
Management and incentive fees receivable		12,583
Other assets		8,083
Notes and other amounts due from affiliates		172,671
Notes receivable		6,421
Fixed assets and leasehold improvements, net of accumulated depreciation of \$8,533		6,747

Total assets	\$	542,574
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Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,417
Due to brokers		29,505
Accrued and other liabilities		36,960
Notes payable		25,763
Investment liabilities		27,318
Total liabilities		123,963

Partners' capital		418,611
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Total liabilities and partners' capital	\$	542,574
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*Investments, at fair value includes \$123.0 million of limited partnership interest ownership of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2016 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
Year Ended December 31, 2016

(in thousands)

Revenue:

Management fees	\$ 52,599
Shared services fees	9,563
Incentive fees	8,151
Interest and investment income	2,750
Miscellaneous income	2,392
Total revenue	<u>75,455</u>

Operating expenses:

Compensation and benefits	36,160
Professional fees	8,758
Marketing and advertising expense	5,170
Interest expense	2,478
Bad debt expense	2,094
Depreciation and amortization	1,367
Investment and research consulting	829
Other operating expenses	7,334
Total operating expenses	<u>64,190</u>

Other income	<u>10,779</u>
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Income before investment activities	22,044
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Realized and unrealized gains/losses from investments:

Net realized gain on sale of investments	63,605
Net change in unrealized loss on investments*	<u>(29,562)</u>
Total realized and unrealized gain from investments	<u>34,043</u>

Losses from equity method investees:	<u>(16,731)</u>
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Net income	<u><u>\$ 39,356</u></u>
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*Net change in unrealized gain on investments includes \$ 0.9 million of unrealized gains from holdings of limited partnership interests of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2016 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited consolidated financial statements.

EXHIBIT 72

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

Consolidated Financial Statements and Supplemental Information December 31, 2017

Highland Capital Management, L.P.

(A Delaware Limited Partnership)

Index

December 31, 2017

	Page
Report of Independent Auditors	1
Consolidated Financial Statements	
Consolidated Balance Sheet.....	2
Consolidated Statement of Income	3
Consolidated Statement of Changes in Partners' Capital.....	4
Consolidated Statement of Cash Flows.....	5
Notes to Consolidated Financial Statements	6-41
Supplemental Information.....	42-46



Report of Independent Auditors

To the General Partner of Highland Capital Management, L.P.

We have audited the accompanying consolidated financial statements of Highland Capital Management, L.P. and its subsidiaries (collectively, the "Partnership"), which comprise the consolidated balance sheet as of December 31, 2017, and the related consolidated statements of income, of changes in partners' capital and of cash flows for the year then ended.

Management's Responsibility for the Consolidated Financial Statements

Management is responsible for the preparation and fair presentation of the consolidated financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on the consolidated financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on our judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, we consider internal control relevant to the Partnership's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Partnership's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Highland Capital Management, L.P. and its subsidiaries as of December 31, 2017, and the results of their operations, changes in their partners' capital and their cash flows for the year then ended, in accordance with accounting principles generally accepted in the United States of America.

Other Matter

Our audit was conducted for the purpose of forming an opinion on the consolidated financial statements taken as a whole. The Supplemental Consolidating Balance Sheet, the Supplemental Consolidating Statement of Income, the Supplemental Unconsolidated Balance Sheet and the Supplemental Unconsolidated Statement of Income are presented for purposes of additional analysis and are not a required part of the consolidated financial statements. The information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the consolidated financial statements. The information has been subjected to the auditing procedures applied in the audit of the consolidated financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the consolidated financial statements or to the consolidated financial statements themselves and other additional procedures, in accordance with auditing standards generally accepted in the United States of America. In our opinion, the information is fairly stated, in all material respects, in relation to the consolidated financial statements taken as a whole.

PricewaterhouseCoopers LLP

May 18, 2018

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Balance Sheet
December 31, 2017

(in thousands)

Assets

Cash and cash equivalents	\$	103,479
Investments at fair value (cost \$1,027,878)		1,056,380
Management and incentive fees receivable		11,861
Due from broker for securities sold, not yet settled		2,287
Other assets		14,674
Notes and other amounts due from affiliates		163,403
Other intangible assets		6,330
Fixed assets and leasehold improvements, net of accumulated depreciation of \$9,880		5,832
Total assets	\$	1,364,246

Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,436
Securities sold, not yet purchased (proceeds \$63,187)		95,403
Withdrawals payable		140,955
Due to brokers		104,896
Accrued and other liabilities		39,181
Notes payable		19,995
Investment liabilities		84,359
Total liabilities		489,225

Non-controlling interest		424,844
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Commitments and contingencies

Partners' capital		450,177
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Total liabilities and partners' capital	\$	1,364,246
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Income
Year Ended December 31, 2017

(in thousands)

Revenue:

Management fees	\$	37,875
Interest and investment income		21,122
Incentive fees		11,795
Shared services fees		9,445
Other income		9,790
Total revenue		<u>90,027</u>

Expenses:

Compensation and benefits	37,254
Professional fees	14,757
Interest expense	5,508
Marketing and advertising expense	2,374
Depreciation and amortization	1,340
Investment and research consulting	1,101
Bad debt expense	2,279
Other operating expenses	7,915
Total expenses	<u>72,528</u>

Other income	11,967
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Income before investment and derivative activities	<u>29,466</u>
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Realized and unrealized gain/(loss) on investments and derivatives:

Net realized loss on investments and derivatives	(9,682)
Net change in unrealized gain on investments and derivatives	<u>114,883</u>
Net realized and unrealized gain on investments and derivatives	<u>105,201</u>

Net income	134,667
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Net income attributable to non-controlling interest	<u>82,060</u>
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Net income attributable to Highland Capital Management, L.P.	<u>\$ 52,607</u>
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The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Changes in Partners' Capital
Year Ended December 31, 2017

(in thousands)

	<u>General Partner</u>	<u>Limited Partners</u>	<u>Total</u>
Partners' capital, December 31, 2016	\$ 83	\$ 418,528	\$ 418,611
Net income attributable to Highland Capital Management, L.P.	133	52,474	52,607
Partner distributions	<u>(53)</u>	<u>(20,988)</u>	<u>(21,041)</u>
Partners' capital, December 31, 2017	<u>\$ 163</u>	<u>\$ 450,014</u>	<u>\$ 450,177</u>

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Consolidated Statement of Cash Flows
Year Ended December 31, 2017

(in thousands)

Cash flows from operating activities:

Net income	\$ 134,667
Adjustment to reconcile net income to net cash used in operating activities:	
Net realized loss on investments and derivative transactions	9,682
Net change in unrealized gain on investments and derivative transactions	(114,883)
Amortization and depreciation	1,340
Changes in assets and liabilities:	
Management and incentive fee receivable	722
Due from brokers	(1,395)
Due from affiliate	(2,246)
Other assets	(1,764)
Intangible assets	(6,330)
Accounts payable	(6)
Accrued and other liabilities	(3,658)
Due to brokers for securities purchased, not yet settled	(1,614)
Due to brokers	(66,753)
Net cash used in operating activities	<u>(52,238)</u>

Cash flows from investing activities:

Purchases of fixed assets and leasehold improvements, net	(425)
Purchases of investments	(237,987)
Proceeds from dispositions of investments	418,686
Proceeds from securities sold, not yet purchased	16,456
Issuance of notes receivable to affiliates	(10,050)
Proceeds from repayments of notes receivable from affiliates	27,985
Purchases of investments to cover securities sold, not yet purchased	(61,160)
Net cash provided by investing activities	<u>153,505</u>

Cash flows from financing activities:

Payments on notes payable & investment liabilities	(9,569)
Capital contributions from minority interest investors of consolidated entities	1,705
Capital withdrawals by minority interest investors of consolidated entities	1,242
Partner distributions	(21,295)
Net cash used in financing activities	<u>(27,917)</u>

Net increase in cash and cash equivalents	73,350
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Cash and cash equivalents

Beginning of year	<u>30,129</u>
End of year	<u>\$ 103,479</u>

Supplemental disclosure of cash flow information:

Interest paid during the year	\$ (4,900)
Interest receivable reclassified to promissory notes	4,390
Taxes paid during the year	(1,676)
Investments acquired for non-cash consideration	7,713
Investments disposed for non-cash consideration	3,452

The accompanying notes are an integral part of these consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

1. Description of Business

Highland Capital Management, L.P. (the "Partnership") was formed on July 7, 1997 as a limited partnership in the state of Delaware. The Partnership is a registered investment adviser under the Investment Advisers Act of 1940 that manages collateralized loan obligations ("CLOs"), hedge funds, private equity funds, and other leveraged loan transactions that are collateralized predominately by senior secured bank debt and high-yield bonds. The Partnership and its subsidiaries make direct investments in debt, equity, and other securities in the normal course of business. The Partnership's general partner is Strand Advisors, Inc. (the "General Partner"). The Partnership is owned by an unaffiliated trust as well as affiliated trusts and personal holdings of the senior management of the Partnership.

As of December 31, 2017, the Partnership provided investment advisory services for twenty-eight CLOs, six separate accounts, one master limited partnership, and eleven hedge fund or private equity structures, with total fee-earning assets under management of approximately \$4.9 billion.

2. Summary of Significant Accounting Policies

The following is a summary of the significant accounting policies followed by the Partnership in preparation of its consolidated financial statements.

Basis of Accounting

The Partnership's consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles in the United States of America ("U.S. GAAP") as set forth in the Financial Accounting Standards Board's Accounting Standards Codification and are stated in the United States Dollar.

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. GAAP requires management to make estimates and assumptions that affect the amounts and disclosures in the consolidated financial statements. Actual results could differ from those estimates and those differences could be material.

Principles of Consolidation

The consolidated financial statements include the accounts of the Partnership and the Partnership's consolidated subsidiaries ("Consolidated Entities"), which are comprised of (i) those entities in which it has controlling investment and has control over significant operating, financial and investing decisions, (ii) those entities in which it, as the general partner, has control over significant operating, financial and investing decisions, and (iii) variable interest entities ("VIEs") in which it is the primary beneficiary as described below.

The Partnership determines whether an entity has equity investors who lack the characteristics of a controlling financial interest or does not have sufficient equity at risk to finance its expected activities without additional subordinated financial support from other parties. If an entity has either of these characteristics, it is considered a VIE and must be consolidated by its primary beneficiary, which is the party that, along with its affiliates and de facto agents, absorbs a majority of the VIEs' expected losses or receives a majority of the expected residual returns as a result of holding variable interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

The Partnership assesses consolidation requirements pursuant to ASU 2015-02: Consolidation, which was adopted using the modified retrospective method and resulted in an effective date of adoption of January 1, 2016.

The Partnership and its affiliate's involvement with unconsolidated VIEs is generally limited to that of an advisory services provider, and their investment, if any, represents an insignificant interest in the relevant investment entities' assets under management. The Partnership's affiliate's exposure to risk in these entities is generally limited to any capital contribution it has made or is required to make and any earned but uncollected asset based and performance fees. The Partnership has not issued any investment performance guarantees to these VIEs or their investors, except that the Partnership has agreed to subject the full value of its equity interest (\$1.0M) in Highland Prometheus Fund to dollar-for-dollar reduction to the extent the third party investor in such fund does not achieve an annual target return.

As of December 31, 2017, the net assets of the unconsolidated VIEs and the Partnership's maximum risk of loss were as follows:

(in thousands)

	Unconsolidated VIE Net Assets	Carrying Value and Maximum Risk of Loss
Sponsored investment funds	\$ 625,692,621	\$ 13,979,151

Consolidation of Variable Interest Entities

The Partnership consolidates the following VIEs (along with majority owned funds: Highland Diversified Credit Fund, L.P., and Highland Select Equity Fund, L.P., collectively the "Consolidated Investment Funds"), as the Partnership (or its wholly owned subsidiaries) controls the general partner of the respective entities and is responsible for the daily operations of the following entities:

- Highland Multi Strategy Credit Fund, L.P. ("Multi Strategy Master"), formerly Highland Credit Opportunities CDO, L.P., a Delaware limited partnership that commenced operations on December 15, 2005 and changed its name on August 26, 2014;
- Highland Multi-Strategy Master Fund, L.P. ("Multi-Strat Master"), a Bermuda limited partnership that commenced operations on July 18, 2006;
- Highland Multi-Strategy Fund, L.P. ("Multi-Strat Domestic Feeder"), a Delaware limited partnership that commenced operations on July 6, 2006;
- Highland Restoration Capital Partners Offshore, L.P. ("Restoration Offshore"), a Cayman limited partnership that commenced operations on September 2, 2008;
- Highland Restoration Capital Partners, L.P. ("Restoration Onshore"), a Delaware limited partnership that commenced operations on September 2, 2008; and

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

- BB Votorantim, Highland Infrastructure LLC ("BB Votorantim"), a Delaware limited liability company which began operations on May 29, 2014.

Consolidation of Majority Owned Entities

The Partnership consolidates the following entities as it has a controlling majority interest:

- 100% interest in Highland Capital Special Allocation, LLC ("HCSA"), a Delaware limited liability company that commenced operations on December 21, 2006;
- 100% interest in Highland Receivables Finance 1, LLC, a Delaware limited liability company that commenced operations on December 29, 2006;
- 100% interest in Highland Multi-Strategy Onshore Master SubFund, LLC, a Delaware limited liability company that commenced operations on July 19, 2006;
- 100% interest in Highland Multi-Strategy Onshore Master Subfund II, LLC, a Delaware limited liability company that commenced operations on February 22, 2007;
- 100% interest in Highland Brasil, LLC, a Delaware limited liability company that commenced operations on January 28, 2014;
- 100% interest in Highland Capital Management Partners Charitable Trust #1, a trust that commenced operations on September 19, 2006;
- 100% interest in Highland Capital Management (Singapore) Pte. Ltd., a company organized in the Republic of Singapore that commenced operations on April 2, 2008;
- 100% interest in Highland Capital Management Korea, Ltd. ("HCM Korea"), a company organized in the Republic of Korea that commenced operations on August 2, 2012;
- 100% interest in Highland Capital Management Latin America, L.P., ("HCM Latin America"), a Cayman company that was formed on April 13, 2017;
- 100% interest in HE Capital, LLC, a Delaware limited liability company that was formed on March 22, 2007;
- 100% interest in De Kooning, Ltd, a Cayman company that was formed on December 1, 2012;
- 100% interest in Hirst, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Hockney, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Oldenburg, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in Eames, Ltd, a Cayman company that was formed on December 12, 2012;
- 99.9% interest in Penant Management, L.P., a Delaware limited partnership that was formed on December 12, 2012;
- 100% interest in Pollack, Ltd., a Cayman company that was formed on December 1, 2012;

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

- 100% interest in Warhol, Ltd., a Cayman company that was formed on December 1, 2012;
- 100% interest in HCREF-I Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREF-XI Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in HCREF-XII Holding Corp., a Delaware company that was formed on December 13, 2012;
- 100% interest in Highland ERA Management, LLC, a Delaware limited liability company that was formed on February 1, 2013;
- 100% interest in The Dondero Insurance Rabbi Trust, a trust that was formed on May 27, 2004;
- 100% interest in The Okada Insurance Rabbi Trust, a trust that was formed on May 27, 2004;
- 100% interest in Highland Employee Retention Assets ("HERA"), LLC, a Delaware limited liability company that was formed on October 26, 2009;
- 100% interest in Highland Diversified Credit Fund, L.P. ("Highland Offshore Partners"), a Delaware limited partnership which began operations on February 29, 2000 and was organized for the sole purpose of investing substantially all of its assets in Highland Offshore Partners, L.P.;
- 99.6% interest in Highland Select Equity Master Fund, LP, and Highland Select Equity Fund, LP Delaware limited partnerships which began operations on January 1, 2002 and was organized for the purpose of investing and trading in large and small cap stocks that trade for less than intrinsic value;
- 100% interest in Bandera Strategic Credit Partners I SLP, L.P., a Delaware limited liability company formed on April 3, 2014;
- 100% interest in Highland Fund Holdings, LLC, a Delaware limited liability company that was formed on May 24, 2016;
- 100% interest in HCM Holdco, LLC, a Delaware limited liability company formed on October 27, 2015 and;
- 100% interest in Maple Avenue Holdings, LLC, a Texas limited liability company formed on August 17, 2016.
- 100% interest in Highland HCF Advisor, Ltd., a Cayman company that was formed on October 27, 2017.

All inter-partnership and intercompany accounts and transactions involving the above listed Consolidated Entities have been eliminated in all of the aforementioned consolidating schedules. All the Consolidated Investment Funds are, for U.S. GAAP purposes, investment companies under the American Institute of Certified Public Accountants (AICPA) Audit and Accounting Guide -

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Investment Companies. The Partnership has retained the specialized accounting of these funds required under U.S. GAAP.

The following table includes a rollforward of non-controlling interests from December 31, 2016, to December 31, 2017.

(in thousands)

Noncontrolling interest, December 31, 2016	\$ 412,847
Net income attributable to noncontrolling interest	82,060
Noncontrolling partner distributions	<u>(70,063)</u>
Noncontrolling interest, December 31, 2017	<u>\$ 424,844</u>

Investment Transactions

Investment transactions are recorded on a trade date basis. Investments in securities are valued at market or fair value at the date of the consolidated financial statements with the resulting net unrealized appreciation or depreciation reflected in the Consolidated Statement of Income. Realized gains and losses on the transactions are determined based on either the first-in, first-out or specific identification method.

See Note 5 for the Partnership's fair value process and hierarchy disclosures.

Management and Incentive Fee Revenue

The Partnership recognizes revenue as earned in connection with services provided under collateral and investment management agreements. Under these agreements, the Partnership earns management fees calculated as a percentage of assets under management or net asset value. The Partnership also has an opportunity to earn additional incentive fees and incentive allocations related to certain management agreements depending ultimately on the financial performance of the underlying assets the Partnership manages. During the year ended December 31, 2017, the Partnership and its Consolidated Entities recognized management fees and incentive fees of approximately \$37.9 million and \$11.8 million, respectively.

Shared Services Revenue

The Partnership recognizes revenue as earned in connection with services provided to related parties under various shared services agreements. Under these agreements, the Partnership earns fees for services including, but not limited to, back office support functions, marketing, and investment advisory services. During the year ended December 31, 2017, the Partnership and its Consolidated Entities recognized shared services revenue of approximately \$9.4 million, which has been presented in *Shared services fees* in the Consolidated Statement of Income. See further discussion in Note 9.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Income and Expense Recognition

Interest on currently paying debt instruments is accrued as earned and dividend income and dividends on securities sold, not yet purchased are recorded on the ex-dividend date, net of withholding taxes. In certain instances where the asset has defaulted or some amount of the interest payment is deemed uncollectable, interest is recognized when received. Discounts and premiums associated with purchases of investments are accreted and amortized to interest income, except for deep-discounted debt where ultimate collection of interest and principal may be in doubt. Such accretion/amortization is calculated on an effective-yield basis over the life of the investment. Amendment fees are recognized when agreed to by the underlying company and all settlement contingencies are met. Operating expenses, including interest on securities sold short, not yet purchased, are recorded on the accrual basis as incurred.

Income Taxes

The Partnership is not subject to federal income taxes, and therefore, no provision has been made for such taxes in the accompanying consolidated financial statements. Income taxes are the responsibility of the partners. Certain consolidated subsidiaries are subject to federal income taxes.

Certain entities that are included in these consolidated financial statements are subject to federal and/or state income taxes. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in the period that includes the enactment date. See further discussion in Note 14.

Cash and Cash Equivalents

Cash and cash equivalents consist of cash held at U.S. and foreign banks, deposits with original maturities of less than 90 days, and money market funds. Cash equivalents are carried at cost, which approximates market value. At December 31, 2017, the Partnership and Consolidated Entities held cash balances at certain financial institutions in excess of the federally insured limit of \$0.3 million. The Partnership and Consolidated Entities regularly monitor the credit quality of these institutions.

Notes Receivable

Notes receivable consists of secured promissory notes with maturities greater than one year. When available, the Partnership uses observable market data, including pricing on recent closed transactions to value notes. When appropriate, these notes may be valued using collateral values. Adjustments to the value may be performed in circumstances where attributes specific to the collateral exist suggesting impairment.

Other Intangible Assets

Goodwill and other intangible assets are recorded on the Consolidated Balance Sheet at current carrying values. The Partnership and its Consolidated Entities perform an impairment test on an annual basis. Any impairment in the value of other intangible assets is accounted for in the year when it occurs.

Highland Capital Management, L.P.
 (A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are carried at cost, less accumulated depreciation. Depreciation is provided using the straight-line method over the shorter of the estimated useful life of the assets or the lease term.

The Partnership and its Consolidated Entities are depreciating fixed assets as follows:

	<u>Period</u>
Leasehold improvements	Lease term
Buildings	29 - 40 years
Furniture and fixtures	7 years
Computer and equipment	3 - 5 years
Computer software	3 years

Securities Sold, Not Yet Purchased

The Partnership's Consolidated Investment Funds engage in "short sales" as part of their investment strategies. Short selling is the practice of selling securities that are borrowed from a third party. The Consolidated Investment Funds are required to return securities equivalent to those borrowed for the short sale at the lender's demand.

Pending the return of such securities, the Consolidated Investment Funds deposit with the lender as collateral the proceeds of the short sale plus additional cash. The amount of the required deposit, which earns interest, is adjusted periodically to reflect any change in the market price of the securities that the Consolidated Investment Funds are required to return to the lender. A gain (which cannot exceed the price at which the Consolidated Investment Funds sold the security short) or a loss (which theoretically could be unlimited in size) will be settled upon termination of a short sale.

Due to/from Brokers

Due to and from broker balances recorded on the Consolidated Balance Sheet include liquid assets maintained with brokers and counterparties for margin account balances and the amounts due for or due from the settlement of purchase and sales transactions. Certain due to and from broker balances have been reported on a net-by-counterparty basis where, in accordance with contractual rights and the Partnership's opinion, there is a right of offset in the event of bankruptcy or default by a counterparty.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Options Contracts

The Partnership and the Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership or the Consolidated Entities purchase (write) an option, an amount equal to the premium paid (received) by the entity is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the Partnership or the Consolidated Entities enter into a closing transaction), the entity realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership or the Consolidated Entities purchasing a security at a price different from the current market value.

The Partnership and the Consolidated Entities are exposed to counterparty risk from the potential that a seller of an option contract does not sell or purchase the underlying asset as agreed under the terms of the option contract. The maximum risk of loss from counterparty risk to the Partnership and the Consolidated Entities is the greater of the fair value of its open option contracts or the premiums paid to purchase the open option contracts. The Partnership and the Consolidated Entities consider the credit risk of the intermediary counterparties to its option transactions in evaluating potential credit risk.

Margin Transactions

To obtain more investable cash, the Consolidated Entities may use various forms of leverage including purchasing securities on margin. A margin transaction consists of purchasing an investment with money loaned by a broker and agreeing to repay the broker at a later date. Interest expense on the outstanding margin balance is based on market rates at the time of the borrowing.

Withdrawals Payable

Withdrawals are recognized as liabilities, net of incentive allocations, when the amount requested in the withdrawal notice becomes fixed and determinable. This generally may occur either at the time of receipt of the notice, or on the last day of a fiscal period, depending on the nature of the request. As a result, withdrawals paid after the end of the year, but based upon year-end capital balances are reflected as withdrawals payable at December 31, 2017. Withdrawal notices received for which the dollar amount is not fixed remains in capital until the amount is determined. At December 31, 2017, the Consolidated Investment Funds had withdrawals payable of \$141.0 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Foreign Currency Transactions

The Partnership's subsidiaries HCM Singapore and HCM Korea use Singapore dollars and Korean won, respectively, as their functional currency. All foreign currency asset and liability balances are presented in U.S. dollars in the consolidated financial statements, translated using the exchange rate as of December 31, 2017. Revenues and expenses are recorded in U.S. dollars using an average exchange rate for the relative period. Foreign currency transaction gains and losses resulting from transactions outside of the functional currency of an entity are included in *Other income* on the Consolidated Statement of Income.

The Consolidated Entities do not isolate that portion of the results of operations resulting from changes in foreign exchange rates or investment or fluctuations from changes in market prices of securities held. Such fluctuations are included within the *Net realized and unrealized gains or loss from investments* on the Consolidated Statement of Income.

Life Settlement Contracts

One of the Consolidated Investment Funds, through a subsidiary, holds life settlement contracts and accounts for them using the fair value method. These contracts are recorded as a component of "Investments at fair value" on the Consolidated Balance Sheet. Realized and unrealized gains (losses) on the contracts are recorded in the Consolidated Income Statement. Cash flows relating to the purchase and sale of the contracts are recorded as a component of *Purchase of investments* and *Proceeds from dispositions of investments* on the Consolidated Statement of Cash Flows. At December 31, 2017, the Consolidated Investment Fund was invested in 13 policies, which had a total face value of approximately \$145.3 million and a fair value of \$29.0 million.

Financing

The Partnership and its Consolidated Entities may finance the acquisition of its investments in securities and loans through financing arrangements which are classified in Notes payable and Investment liabilities on the Consolidated Balance Sheet. The Partnership and its Consolidated Entities recognize interest expense on all borrowings on the accrual basis in the Consolidated Statement of Income.

Financial Instruments

The Partnership and its Consolidated Entities determine fair value of financial instruments as required by U.S. GAAP. The carrying amounts for cash and cash equivalents, receivables, accounts payable, withdrawals payable, debt and notes payable, due to brokers, investment liabilities and accrued liabilities approximate their fair values. For fair value of investment, see Note 5.

Accounts Payable, Accrued and Other Liabilities

Expenses are recorded on an accrual basis, as incurred. Current liabilities are included in Accounts payable. Long-term liabilities are included in Accrued and other liabilities.

Partners' Capital

The Partnership agreement requires that income or loss of the Partnership be allocated to the partners in accordance with their respective partnership interests.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Recently Issued Accounting Standards and Interpretations

In January 2016, the FASB issued ASU 2016-01, Fair Value: Recognition and Measurement of Financial Assets and Liabilities. Under the new standard, all equity investments in unconsolidated entities (other than those accounted for using the equity method of accounting) will generally be measured at fair value through earnings. The standard is effective for fiscal periods beginning after December 15, 2018. The Partnership does not expect the adoption of this standard to have a significant impact on its Consolidated Financial Statements.

In February 2016, the FASB issued ASU 2016-02, Leases, which requires lessees to recognize assets and liabilities arising from most operating leases on the statement of financial position. The standard is effective for fiscal periods beginning after December 15, 2019. The Partnership is evaluating the impact of this standard on its Consolidated Financial Statements.

In August 2016, the FASB issued ASU 2016-15, Statement of Cash Flows - Classification of Certain Cash Receipts and Cash Payments, which clarifies how cash receipts and cash payments are classified in the statement of cash flows. The standard is effective for fiscal periods beginning after December 15, 2018. The Partnership does not expect the adoption of this standard to have a significant impact on its Consolidated Financial Statements.

In May, 2014, the FASB issued ASU 2014-09, Revenue from contracts with customers, and subsequently issued several related amendments. ASC 606 provides a comprehensive model for revenue recognition and is effective in fiscal periods beginning after December 15, 2018. ASC 606 supersedes Accounting Standards Codification ("ASC") 605 and all prior FASB guidance related to revenue recognition. ASC 606 provides accounting guidance for all revenue arising from contracts with customers and also specifies the accounting for costs incurred to obtain or fulfill a revenue generating contract. The Partnership does not expect the adoption of this standard to have a significant impact on its Consolidated Financial Statements.

3. Fixed Assets and Leasehold Improvements

Fixed assets and leasehold improvements are comprised of the following as of December 31, 2017:

(in thousands)

Leasehold improvements	\$	7,192
Buildings		2,595
Furniture and fixtures		2,795
Computer and equipment		2,799
Computer software		331
Accumulated depreciation		(9,880)
	\$	<u>5,832</u>

Depreciation expense in 2017 totaled approximately \$1.3 million for the Partnership and its subsidiaries.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

4. Investments

Detailed below is a summary of the Partnership and its Consolidated Entities' investments at December 31, 2017:

(in thousands)

	Amortized Cost/Cost	Fair Value
Common equity securities	\$ 480,073	\$ 758,007
Closed-end mutual funds	100,328	99,620
Floating rate syndicated bank loans	138,781	68,030
Real Estate Investment Trusts	28,950	39,406
Life settlement contracts	57,922	28,959
Limited partnership interests	24,103	27,863
Participation interests	19,449	14,199
Rights & warrants	21,899	9,691
Asset-backed securities	57,365	6,477
LLC interests	12,803	3,352
Corporate bonds	85,946	527
Preferred equity	258	249
Total investments	<u>\$ 1,027,878</u>	<u>\$ 1,056,380</u>
	Proceeds	Fair Value
Securities sold, not yet purchased	<u>\$ (63,187)</u>	<u>\$ (95,403)</u>

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

5. Fair Value of Financial Instruments

Fair Value Measurement

U.S. GAAP defines fair value as the price an entity would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants as of the measurement date. The standard requires fair value measurement techniques to reflect the assumptions market participants would use in pricing an asset or liability and, where possible, to maximize the use of observable inputs and minimize the use of unobservable inputs. It also establishes the following hierarchy that prioritizes the valuation inputs into three broad levels:

- Level 1 – Valuation based on unadjusted quoted prices in active markets for identical assets and liabilities that the Partnership and the Consolidated Entities have the ability to access as of the measurement date. Valuations utilizing Level 1 inputs do not require any degree of judgment.
- Level 2 – Valuations based on (a) quoted prices for similar instruments in active markets; (b) quoted prices for identical or similar instruments in markets that are not active that are reflective of recent market transactions; or (c) models in which all significant inputs are observable, either directly or indirectly.
- Level 3 – Valuations based on indicative quotes that do not reflect recent market transactions and models or other valuation techniques in which the inputs are unobservable and significant to the fair value measurement, which includes situations where there is little, if any, market activity for the asset or liability.

The availability of observable inputs varies among financial instruments and is affected by numerous factors, including the type of instruments, the period of time in which the instrument has been established in the marketplace, market liquidity for an asset class and other characteristics particular to a transaction. When the inputs used in a valuation model are unobservable, management is required to exercise a greater degree of judgment to determine fair value than it would for observable inputs. For certain instruments, the inputs used to measure fair value may fall into different levels of the hierarchy discussed above. In those cases, the instruments are categorized for disclosure purposes based on the lowest level of inputs that are significant to their fair value measurements.

The Partnership and Consolidated Entities use prices and inputs that are current as of the measurement dates. The Partnership also considers the counterparty's non-performance risk when measuring the fair value of its investments.

During periods of market dislocation, the ability to observe prices and inputs for certain instruments may change. These circumstances may result in the instruments being reclassified to different levels within the hierarchy over time. They also create an inherent risk in the estimation of fair value that could cause actual amounts to differ from management's estimates. Whenever possible, the Partnership and its Consolidated Entities use actual market prices or relevant observable inputs to establish the fair value of its assets and liabilities. In cases where observable inputs are not available, the Partnership and Consolidated Entities develop methodologies that provide appropriate fair value estimates. These methodologies are reviewed on a continuous basis to account for changing market conditions.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

The Partnership has established policies, as described above, processes and procedures to ensure that valuation methodologies for investments and financial instruments that are categorized within all levels of the fair value hierarchy are fair and consistent. A Pricing Committee has been established to provide oversight of the valuation policies, processes and procedures, and is comprised of various personnel from the Partnership. The Pricing Committee meets monthly to review the proposed valuations for investments and financial instruments. The Pricing Committee is responsible for establishing the valuation policies and evaluating the overall fairness and consistent application of those policies.

As of December 31, 2017, the Partnership and its Consolidated Entities' investments consisted primarily of common equity securities, closed-end mutual funds, floating rate syndicated bank loans, real estate investment trusts, life settlement contracts, limited partnership interests, participation interests, rights and warrants, option contracts, asset-backed securities, LLC interests, corporate bonds, and preferred equity. In addition, the Consolidated Entities engage in short sale transactions. The majority of these financial instruments are not listed on national securities exchanges and management is required to use significant judgment to estimate their values.

Equity Investments

Publicly traded equities are valued at the closing price at the date of the financial statements. The fair value of equity investments that are not traded on national exchanges or through real-time quotation services are derived from methodologies that provide appropriate fair value estimates. Equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets.

Private Equity Investments

The Partnership and Consolidated Entities hold private equity investments which resulted from the restructuring of other instruments. These assets are valued using market data obtained from a third-party pricing service and/or quotes from other parties dealing in the specific assets when available. In the event both a reliable market quote and third-party pricing service data are not available for such assets, the Partnership and Consolidated Entities will fair value the assets using various methodologies, as appropriate for individual investments, including comparable transaction multiples, comparable trading multiples, and/or discounted cash flow analysis. When utilizing comparable trading multiples, the Investment Manager determines comparable public companies (peers) based on industry, size, developmental stage, strategy, etc., and then calculates a trading multiple for each comparable company identified by using either a price to book ratio based on publically available information about the underlying comparable company or by dividing the enterprise value of the comparable company by its earnings before interest, taxes, depreciation and amortization (EBITDA) or similar metrics. In certain instances, the inputs used in the calculation of the trading multiples may vary based on the industry or development stage of the company. A multiple determined by the Investment Manager to be within a reasonable range as calculated amongst its peers is then applied to the underlying company's price to book ratio or EBITDA (which may be normalized to adjust for certain nonrecurring events), to calculate the fair value of the underlying company. The fair value may be further adjusted for entity specific facts and circumstances. Private equity investments with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Private equity investments that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

The Consolidated Entities also invest in warrant securities of publicly-traded companies. The fair value of these investments is based on an option pricing model. The option model bases warrant value on a number of factors including underlying equity price as of the valuation date, strike price, exercise date, time to expiration and volatility. Warrant investments that have observable volatility are classified as Level 2 assets. Warrant investments where volatility inputs are not observable are valued using an estimated volatility input, and are classified as Level 3 assets.

Debt Securities

The Partnership and Consolidated Entities invest in various types of debt, which are almost exclusively valued using market data obtained from one or more third-party pricing services or brokers. In instances where a third-party pricing service does not provide pricing for a specific asset, the Partnership and Consolidated Entities first seek to obtain reliable market quotes from other parties dealing in the specific asset. Loans and bonds with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Loans and bonds that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Absent both a reliable market quote and third-party pricing service date, the Partnership and Consolidated Entities may use various models to establish an estimated exit price. These investments are classified as Level 3 assets. Models used for debt securities are primarily based on identifying comparable assets for which market data is available and pricing the target asset consistent with the yields of the comparable assets. As circumstances require, other industry accepted techniques may be used in modeling debt assets.

Life Settlement Contracts

Life Settlement contracts are valued using mortality tables and interest rate assumptions that are deemed by management to be appropriate for the demographic characteristics of the parties insured under the policies. Management generally utilizes an independent third party firm to perform these calculations and provide the relevant inputs. Management evaluates the results based on visible market activity and market research. Since these inputs are not readily observable, these contracts are classified as Level 3 assets.

At December 31, 2017, the Consolidated Entities' investments in life settlement contracts consisted of the following:

(U.S. dollars in thousands, except number of policies)

Remaining Life Expectancy (in years)	Number of Policies	Face Value	Fair Value
2-3	1	\$ 5,000	\$ 2,566
4-5	2	28,785	8,882
Thereafter	10	111,500	17,511
Total	13	\$ 145,285	\$ 28,959

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Options Contracts

The Partnership and its Consolidated Entities may purchase and write call and put options to gain market exposure or to hedge investments. A call option gives the purchaser of the option the right (but not the obligation) to buy, and obligates the seller to sell (when the option is exercised), the underlying position at the exercise price at any time or at a specified time during the option period. A put option gives the holder the right to sell and obligates the writer to buy the underlying position at the exercise price at any time or at a specified time during the option period. When the Partnership and its Consolidated Entities purchase (writes) an option, an amount equal to the premium paid (received) by the purchaser is reflected as an asset (liability). The amount of the asset (liability) is subsequently marked-to-market to reflect the current market value of the option purchased (written). When a security is purchased (or sold) through an exercise of an option, the related premium paid (or received) is added to (or deducted from) the basis of the security acquired or deducted from (or added to) the proceeds of the security sold. When an option expires (or the purchaser enters into a closing transaction), the purchaser realizes a gain or loss on the option to the extent of the premiums received or paid (or gain or loss to the extent the cost of the closing transaction exceeds the premium received or paid). Exercise of a written option could result in the Partnership and its Consolidated Entities purchasing a security at a price different from the current market value.

Asset-Backed Securities

The Consolidated Entities invest in a variety of asset-backed securities. Asset-backed securities are generally valued based on complex cash flow models that analyze the cash flows generated by the investment's underlying assets after adjusting for expected default rates, prepayment rates, collateral quality, market liquidity among other factors. These models are then adjusted based on spreads available in the market place from various research firms, dealers, and trading activity. The Consolidated Entities generally utilize an independent third party firm to perform these calculations and provide the relevant inputs. The Consolidated Entities evaluate the results based on visible market activity and market research. When appropriate, the Consolidated Entities may apply other techniques based on a specific asset's characteristics. Asset-backed securities with quotes that are based on actual trades with a sufficient level of activity on or near the valuation date are classified as Level 2 assets. Asset-backed securities that are priced using quotes derived from implied values, bid/ask prices for trades that were never consummated, or a limited amount of actual trades are classified as Level 3 assets because the inputs used by the brokers and pricing services to derive the values are not readily observable.

Limited Partnership and LLC Interests

The Partnership and its Consolidated Entities hold limited partnership and LLC interests in various entities. These assets are valued as the net asset value of the limited partnership interests because the entities utilize fair value accounting for their own financial statements. These interests are classified as Level 3 assets.

The Partnership categorizes investments recorded at fair value in accordance with the hierarchy established under U.S. GAAP. A majority of the Consolidated Entities investments and derivatives at December 31, 2017 are classified as Level 3 positions due to the absence of active markets with quoted prices for identical or similar investments. The following table provides a summary of the financial instruments recorded at fair value on a recurring basis by level within the hierarchy as of December 31, 2017:

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

(in thousands)

				Total Fair Value at 12/31/17
Assets	Level 1	Level 2	Level 3	
Common equity securities	\$ 239,176	\$ 377,630	\$ 141,201	\$ 758,007
Closed-end mutual funds	99,620	-	-	99,620
Floating rate syndicated bank loans	-	3,723	64,307	68,030
Real Estate Investment Trusts	35,153	4,253	-	39,406
Life settlement contracts	-	-	28,959	28,959
Limited partnership interests	-	-	27,863	27,863
Participation interests	14,199	-	-	14,199
Rights & warrants	1,545	133	8,013	9,691
Asset-backed securities	-	-	6,477	6,477
LLC interests	-	-	3,352	3,352
Corporate bonds	-	527	-	527
Preferred equity	249	-	-	249
Total	\$ 389,942	\$ 386,266	\$ 280,172	\$ 1,056,380
Liabilities				
Common stock & Options sold short	\$ 95,403	\$ -	-	\$ 95,403

The classification of a financial instrument within Level 3 is based on the significance of the unobservable inputs to the overall fair value measurement. The following table provides a roll forward of the investments classified within Level 3 for the year ended December 31, 2017:

(in thousands)

	Fair Value at December 31, 2016	Purchases	Sales and Maturities	Restructures	Transfers Into Level 3	Net Realized Gains / (Losses)	Net Unrealized Gains / (Losses)	Fair Value at December 31, 2017
Common equity securities	\$ 117,160	\$ 1,257	\$ -	\$ -	\$ -	\$ -	\$ 22,784	\$ 141,201
Floating rate syndicated bank loans	54,703	11,171	(14)	-	-	(8,254)	6,701	64,307
Life settlement contracts	23,826	6,962	(10,000)	-	-	3,322	4,849	28,959
Limited partnership interests	24,630	10,663	(8,594)	-	-	3,157	(1,993)	27,863
Rights & warrants	7,414	36	-	-	-	-	563	8,013
Participation interests	11,980	-	(5,389)	-	-	-	(6,591)	-
Asset-backed securities	8,223	2,648	(35,715)	-	23,976	2,970	4,375	6,477
LLC interests	18,228	143	(16,015)	-	676	5,310	(4,990)	3,352
Corporate bonds	-	-	-	-	-	(400)	400	-
	\$ 266,164	\$ 32,880	\$ (75,727)	\$ -	\$ 24,652	\$ 6,105	\$ 26,098	\$ 280,172

Transfers from Level 2 to Level 3 or from Level 3 to Level 2 are due to changes in observable pricing inputs as compared to the prior year. No significant transfers between Level 1 or Level 2 fair value measurements occurred during the year ended December 31, 2017.

All net realized and unrealized gains and losses in the tables above are reflected in the accompanying Consolidated Income Statement. Approximately \$17.3 million of the net unrealized gains presented in the table above relate to investments held as of December 31, 2017.

The following page includes a summary of significant unobservable inputs used in the fair valuations of assets and liabilities categorized within Level 3 of the fair value hierarchy.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

(Fair value in thousands)

Category	Ending Balance at 12/31/2017	Valuation Technique	Unobservable Inputs	Input Value(s)
Common equity securities	\$ 141,201	Multiples Analysis	Multiple of EBITDA	3.0x - 8.25x
			Cap Rate	7.5 - 8.5%
			Minority Discount	20%
		Discounted Cash Flow	Liquidity Discount	25%
			Discount Rate	12 - 31.5%
			Terminal Multiple	2.0x - 7.0x
			Minority Discount	20%
			Discount for Lack of Marketability	15%
			Discount for Lack of Marketability	15%
		Equity Valuation	N/A	N/A
		Bid Indications	N/A	N/A
		Enterprise Valuation	Weightings	0-60%
		Appraisal	N/A	N/A
Floating rate syndicated bank loans	64,307	Multiples Analysis	Multiple of EBITDA	3.0x - 5.0x
			Multiple of Revenue	0.4x - 0.5x
		Escrow Recovery Analysis	Discount Rate	11%
			Weightings	0-60%
		Appraisal	N/A	N/A
		Bid Indications	N/A	N/A
		Discounted Cash Flow	Discount Rate	12.3% - 31.5%
			Terminal Multiple	2.0x
Life settlement contracts	28,959	Net Asset Value of Underlying Assets, based on third-party pricing vendor	Spread Adjustment	0.2% - 6.3%
			Discount Rate	16 - 17%
Limited partnership interests	27,863	Net Asset Value	Various models including liquidation analysis, and third-party pricing vendor	N/A
Rights & warrants	8,013	Discounted Cash Flow	Discount Rate	12 - 17%
			Terminal Multiple	7.0x
			Minority Discount	20%
			Discount for Lack of Marketability	15%
		Multiples Analysis	Multiple of EBITDA	7.75x - 8.25x
Asset-backed securities	6,477	Third-Party Pricing Vendor	N/A	N/A
		Net Asset Value	N/A	N/A
		Adjusted NAV	N/A	N/A
		Blended Approach	Weightings	20-80%
LLC interests	3,352	Discounted Cash Flow	Discount Rate	6%
			Scenario Probabilities	15 - 70%
			Illiquidity Discount	10%
		Adjusted Appraisal	Minority Discount	25%
		Appraisal	N/A	N/A
Total	\$ 280,172			

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

6. Securities Sold under Agreements to Repurchase

Transactions involving securities sold under agreements to repurchase are treated as collateralized financial transactions, and are recorded at their fair market values. In addition, interest earned on the securities is included in interest receivable, and interest accrued on amounts borrowed is included in interest payable. For the year ended December 31, 2017, Multi Strategy Master expensed approximately \$1.1 million for interest charged on the amounts borrowed for repurchase agreements.

In connection with transactions in agreements to repurchase, it is Multi Strategy Master's policy that its counterparty take possession of the underlying collateral securities, the fair value of which exceeds the principal amount of the agreements to repurchase, including accrued interest, at all times. If the counterparty defaults under agreements to resell, and the fair value of the collateral declines, the realization of the collateral by Multi Strategy Master may be delayed or limited.

To reduce counterparty credit risk with respect to repurchase agreements, Multi Strategy Master has entered into a master repurchase agreement, which allows Multi Strategy Master to make (or to have an entitlement to receive) a single net payment in the event of default (close-out netting) for outstanding payables and receivables with respect to repurchase agreements with the counterparty.

The master repurchase agreement includes credit related contingent features which allow the counterparty to terminate the agreement prior to maturity in the event Multi Strategy Master's net assets decline by a stated percentage or Multi Strategy Master fails to meet the terms of the agreement, which would cause the Master Partnership to accelerate payment of any net liability owed to the counterparty.

For financial reporting purposes, Multi Strategy Master does not offset repurchase agreement assets and liabilities that are subject to netting arrangements in the Consolidated Balance Sheet. Bankruptcy or insolvency laws of a particular jurisdiction may impose restrictions on or prohibitions against the right of offset in bankruptcy, insolvency or other events.

Collateral terms are contract specific for repurchase agreements. For repurchase agreements traded under master repurchase agreements, the collateral requirements are typically calculated by netting the mark to market amount for each transaction under such agreement and comparing that to the value of any collateral currently pledged by Multi Strategy Master or the counterparty.

For financial reporting purposes, cash collateral that has been pledged to cover obligations of Multi Strategy Master, if any, is reported in due to/from brokers on the Consolidated Balance Sheet. Generally, the amount of collateral due from or to a party must exceed a minimum transfer amount threshold before a transfer has to be made. To the extent amounts due to Multi Strategy Master from its counterparties are not fully collateralized, contractually or otherwise, Multi Strategy Master bears the risk of loss from counterparty non-performance.

At December 31, 2017, there were no repurchase or reverse repurchase agreements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

7. Financial Instruments with Concentration of Credit and Other Risks

Financial Instruments

The Partnership and its Consolidated Entities' investments include, among other things, equity securities, debt securities (both investment and non-investment grade) and bank loans. The Consolidated Entities may also invest in derivative instruments, including total return and credit default swaps. Investments in these derivative instruments throughout the year subject the Consolidated Entities to off-balance sheet market risk, where changes in the market or fair value of the financial instruments underlying the derivative instruments may be in excess of the amounts recognized in the Consolidated Balance Sheet.

Market Risk

Market risk represents the potential loss that may be incurred by the Partnership and its Consolidated Entities due to a change in the market value of its investments or the value of the investments underlying swap agreements. The Partnership and its Consolidated Entities' exposure to market risk is affected by a number of macroeconomic factors, such as interest rates, availability of credit, inflation rates, economic uncertainty and changes in laws and regulations. These factors may affect the level and volatility of securities prices and the liquidity of the Partnership and its Consolidated Entities investments. Volatility or illiquidity could impair the Partnership and its Consolidated Entities performance or result in losses. The Partnership and its Consolidated Entities may maintain substantial trading positions that can be adversely affected by the level of volatility in the financial markets. The performance of life settlement contracts may be adversely impacted by the under estimation of mortality and other rates.

Credit Risk

Credit risk is the potential loss the Partnership and its Consolidated Entities may incur as a result of the failure of a counterparty or an issuer to make payments according to the terms of a contract. Because the Consolidated Entities enter into over-the-counter derivatives such as swaps, it is exposed to the credit risk of their counterparties. To limit the credit risk associated with such transactions, the Consolidated Entities execute transactions with financial institutions that the Investment Manager believes to be financially viable.

Liquidity Risk

The Consolidated Entities' limited partner interests have not been registered under the Securities Act of 1933 or any other applicable securities law. There is no public market for the interests, and neither the Consolidated Entities nor their manager expects such a market to develop.

Business Risk

The Partnership provides advisory services to the Consolidated Entities. Consolidated Entities could be materially affected by the liquidity, credit and other events of the Partnership.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

High Yield Bonds and Loans

The Partnership and its Consolidated Entities' investment portfolios consist of floating rate syndicated bank loans and fixed income securities that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. In addition, certain of the Partnership and its Consolidated Entities' investments have resale or transfer restrictions that further reduce their liquidity. Because of the inherent uncertainty of these investments, the Investment Manager's best estimates may differ significantly from values that would have been used had a broader market for the investments existed.

When the Partnership and its Consolidated Entities purchase a senior secured syndicated bank loan, it enters into a contractual relationship directly with the corporate borrower, and as such, is exposed to certain degrees of risk, including interest rate risk, market risk and the potential non-payment of principal and interest, including default or bankruptcy of the corporate borrower or early payment by the corporate borrower. Typically, senior secured syndicated bank loans are secured by the assets of the corporate borrower and the Partnership and its Consolidated Entities have a policy of regularly reviewing the adequacy of each corporate borrower's collateral.

The Partnership and its Consolidated Entities may invest in high-yield bonds that have been assigned lower rating categories or are not rated by the various credit rating agencies. Bonds in the lower rating categories are generally considered to be speculative with respect to the issuer's ability to repay principal and pay interest. They are also subject to greater risks than bonds with higher ratings in the case of deterioration of general economic conditions. Due to these risks, the yields and prices of lower-rated bonds are generally volatile, and the market for them is limited, which may affect the ability to liquidate them if needed.

Debt Obligations

The Partnership and its Consolidated Entities' investment portfolio consists of collateralized loan obligations that are not listed on a national securities exchange. These investments trade in a limited market and it may not be possible to immediately liquidate them if needed. Because of the inherent uncertainty of these investments, the Partnership's best estimates may differ significantly from values that would have been used had broader market for the investments existed.

Distressed Investments

A portion of the high yield corporate bonds and senior secured syndicated bank loans in which the Partnership and its Consolidated Entities invest have been issued by distressed companies in an unstable financial condition that have experienced poor operating performance and may be involved in bankruptcy or other reorganization and liquidation proceedings. These investments have substantial inherent risks. Many of these distressed companies are likely to have significantly leveraged capital structures, which make them highly sensitive to declines in revenue and to increases in expenses and interest rates. The leveraged capital structure also exposes the companies to adverse economic factors, including macroeconomic conditions, which may affect their ability to repay borrowed amounts on schedule.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Corporate Bonds, Preferred Securities, and Loans

The Consolidated Entities may invest in corporate bonds, floating rate syndicated bank loans, and preferred securities which are rated in the lower rating categories by the various credit rating agencies (or in comparable non-rated securities). Securities in the lower rating categories are subject to greater risk of loss of principal and interest than higher-rated securities and are generally considered to be predominantly speculative with respect to the issuer's capacity to pay interest and repay principal. They are also subject to greater risks than securities with higher ratings in the case of deterioration of general economic conditions. Because of these greater risks associated with the lower-rated securities, the yields and prices of such securities may be more volatile than those for higher-rated securities. The market for lower-rated securities is thinner and less active than that for higher-rated securities, which could adversely affect the prices at which these securities may be sold by the Consolidated Entities.

Limited Diversification

The Investment Manager attempts to diversify the Consolidated Entities' investments. However, the Consolidated Entities' portfolios could become significantly concentrated in any one issuer, industry, sector strategy, country or geographic region, and such concentration of credit risk may increase the losses suffered by the Consolidated Entities. In addition, it is possible that the Investment Manager may select investments that are concentrated in certain classes of financial instruments. This limited diversity could expose the Consolidated Entities to losses that are disproportionate to market movements as a whole.

At December 31, 2017, the Consolidated Entities' investments were predominantly concentrated in the United States and Cayman Islands.

Exit Difficulties

The Partnership and its Consolidated Entities cannot assure investors that it will be able to exit its investments by sale or other disposition at attractive prices, if at all. The mergers and acquisitions and public securities markets are highly cyclical, which means that the Consolidated Entities' investments, even its best performing investments, may be illiquid for extended periods of time despite the Consolidated Entities' efforts to identify attractive exit opportunities. Additionally, a significant portion of the Consolidated Entities' assets at any time will likely consist of debt obligations and other securities that are thinly-traded, for which no market exists and/or are restricted as to their transferability under applicable law and/or documents governing particular transactions of the Consolidated Entities. In some cases, the Consolidated Entities may be unable to realize an investment prior to the date on which the Consolidated Entities are scheduled to terminate and/or have to sell or otherwise dispose of one or more investments on disadvantageous terms as a result of the Consolidated Entities' termination, or distribute such investments in kind.

Custody Risk

The clearing operations for the Partnership and its Consolidated Entities are provided by major financial institutions. In addition, all of the Partnership and its Consolidated Entities' cash and investments are held with banks or brokerage firms, which have worldwide custody facilities and are members of all major securities exchanges. The Partnership or its Consolidated Entities may lose all or a portion of the assets held by these banks or brokerage firms if they become insolvent or fail to perform pursuant to the terms of their obligations. While both the U.S. Bankruptcy Code and the Securities Investor Protection Act of 1970 seek to protect customer property in the event of a broker-dealer's failure, insolvency or liquidation, the Partnership and its Consolidated Entities might be unable to recover the full value of their assets or incur losses due to their assets being unavailable for a period of time.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Leverage Risk

The Consolidated Entities may borrow funds from brokers, banks and other lenders to finance its trading operations. The use of leverage can, in certain circumstances, magnify the losses to which the Consolidated Entities' investment portfolio may be subject. The use of margin and short-term borrowings creates several risks for the Consolidated Entities. If the value of the Consolidated Entities' securities fall below the margin level required by a counterparty, additional margin deposits would be required. If the Consolidated Entities are unable to satisfy a margin call, the counterparty could liquidate the Consolidated Entities' positions in some or all of the financial instruments that are in the account at the prime broker and cause the Consolidated Entities to incur significant losses. In addition, to the extent the Consolidated Entities have posted excess collateral for margin transactions, there is a risk that the counterparty will fail to fulfill its obligation to return the full value of that collateral.

The failure to satisfy a margin call, or the occurrence of other material defaults under margin or other financing agreements, may trigger cross-defaults under the Consolidated Entities' agreements with other brokers, lenders, clearing firms or other counterparties, multiplying the adverse impact to the Consolidated Entities. In addition, because the use of leverage allows the Consolidated Entities to control positions worth significantly more than its investment in those positions, the amount that the Consolidated Entities may lose in the event of adverse price movements is high in relation to the amount of their investment.

In the event of a sudden drop in the value of the Consolidated Entities' assets, the Consolidated Entities may not be able to liquidate assets quickly enough to satisfy their margin or collateral requirements. As a result, the Consolidated Entities may become subject to claims of financial intermediaries, and such claims could exceed the value of its assets. The banks and dealers that provide financing to the Consolidated Entities have the ability to apply discretionary margin, haircut, and financing and collateral valuation policies. Changes by banks and dealers in any of the foregoing may result in large margin calls, loss of financing and forced liquidations of positions and disadvantageous prices.

Foreign Currency Risk

The Partnership and its Consolidated Entities may invest in securities or maintain cash denominated in currencies other than the U.S. dollar. The Partnership and its Consolidated Entities are exposed to risk that the exchange rate of the U.S. dollar relative to other currencies may change in a manner that has an adverse effect on the reported value of the Partnership and its Consolidated Entities' assets and liabilities denominated in currencies other than the U.S. dollar.

Concentration of Investments

At December 31, 2017, the Consolidated Entities' investments and derivative contracts were predominantly concentrated in the United States and Cayman Islands and across several industries.

Litigation Risk

The Partnership and its Consolidated Entities are periodically subject to legal actions arising from the ordinary course of business. The ultimate outcome of these cases is inherently uncertain and could result in additional losses to the Partnership and/or its Consolidated Entities. Refer to Note 15 for a discussion of open litigation.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

8. Other Intangible Assets

On May 12, 2017, HCM Latin America, as manager, purchased all rights and obligations of a certain fund. The current carrying value of these rights and obligations is \$3.5 million, which consists of the original purchase price of \$2.0 million and a deferred purchase price of \$1.5 million.

On December 19, 2017, the Partnership obtained value for subadvisory and shared servicing rights from an affiliate. The current carrying value of this intangible asset is approximately \$2.8 million.

The Partnership and its Consolidated Entities perform an impairment test as required by U.S. GAAP on a yearly basis. The Partnership has determined that no impairment charge is necessary for the current year.

9. Related Party Transactions

Investments Under Common Control

Certain members of the Partnership's management serve as members on the Boards of Directors for some of the companies with which it invests. Because these individuals participate in the management of these companies, investments held by the Partnership and its subsidiaries in these companies may, from time to time, not be freely tradable. As of December 31, 2017, the Partnership and its Consolidated Entities held the following investments in these companies:

(in thousands)

Issuer	Type of Investment	Fair Value
American Banknote Corporation	Common Equity	\$ 747
American Home Patient	Common Equity	1,793
Carey International, Inc	Term Loan	5,392
CCS Medical, Inc.	Loan	6,246
Cornerstone Healthcare Group Holding, Inc.	Common Equity	62,931
JHT Holdings Inc.	Term Loan	3,127
JHT Holdings Inc.	Common Stock	9,654
Metro-Goldwyn-Mayer, Inc.	Common Stock	375,106
OmniMax International, Inc. (fka Euramax Holdings, Inc.)	Warrants	1,086
OmniMax International, Inc. (fka Euramax Holdings, Inc.)	Term Loan	45,445
OmniMax International, Inc. (fka Euramax Holdings, Inc.)	Common Stock	15,367
Trussway Industries, Inc.	LLC Units	51,707
Turtle Bay Holdings, LLC	LLC Units	628

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Certain investments are issued and managed by affiliates of the Partnership. These investments are subject to the same valuation policies and procedures as similar investments within the same level of the fair value hierarchy. As of December 31, 2017, the Partnership and the Consolidated Entities held the following investments that were issued and managed by affiliates of the Partnership:

(in thousands)

Issuer	Type of Investment	Fair Value
ACIS 2013-2A	Asset backed debt	\$ 1,428
Bandera Strategic Credit Partners	Limited Partnership interest	3,628
Harko, LLC	LLC Units	2,466
Highland CLO Funding	Partnership Interest	928
Highland Energy MLP Fund	Mutual fund shares	1,893
Highland Floating Rate Opportunities Fund	Mutual fund shares	1,007
Highland Global Allocation Fund	Mutual fund shares	2,144
Highland Long/Short Equity Fund	Mutual fund shares	297
Highland Long/Short Healthcare Fund	Mutual fund shares	2,632
Highland Master Loan Fund	Limited Partnership interest	105
Highland Merger Arbitrage Fund	Mutual fund shares	1,241
Highland Opportunistic Credit Fund	Mutual fund shares	5,259
Highland Premier Growth Equity Fund	Mutual fund shares	72
Highland Prometheus Master Fund	Partnership Interest	930
Highland Small Cap Equity Fund	Mutual fund shares	498
NexPoint Credit Strategies Fund	Mutual fund shares	55,161
NexPoint Multi Family Capital Trust	REIT	4,253
NexPoint Real Estate Strategies Fund	Closed-end mutual fund shares	1,135
NexPoint Residential Trust	REIT	59,703

Expenses Reimbursable by Funds Managed

In the normal course of business, the Partnership typically pays invoices it receives from vendors for various services provided to the investment funds the Partnership manages. A summary of these eligible reimbursable expenses are then submitted to the trustee/administrator for each respective fund, typically on a quarterly basis, and the Partnership receives payment as reimbursement for paying the invoices on behalf of the respective funds. As of December 31, 2017, approximately \$8.4 million in reimbursable expenses were due from various affiliated funds and entities for these eligible expenses, and is included in *Other Assets* in the accompanying Consolidated Balance Sheet.

Accounts Held with Related Party

During the year the Partnership and its Consolidated Entities maintained bank accounts at NexBank, SSB ("NexBank"), a related party by way of common control. As of December 31, 2017, balances in these accounts were approximately \$1.1 million, a portion of which exceeds Federal deposit insurance limits.

Investment in Affiliated Loans

During the year, certain subsidiaries of the Partnership were invested in several bank loans in which NexBank was the agent bank. Interest earned on the loans during the year was approximately \$9.2 million and is included in Interest and investment income in the Consolidated Statement of Income. At December 31, 2017, these subsidiaries were invested in NexBank agented loans with commitments and market values totaling approximately \$74.4 million and \$49.4 million, respectively.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Notes and Other Amounts Due from Affiliates

During the year ended December 31, 2017, Highland Capital Management Fund Advisors, L.P. ("HCMFA") issued a promissory note to the Partnership in the amount of \$0.2 million. The note accrues interest at a rate of 1.52%, the mid-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2017 total interest and principal due on outstanding promissory notes was approximately \$4.9 million and is payable on demand. The Partnership will not demand payment on amounts owed prior to May 31, 2019. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

On May 31, 2017, the Partnership combined its outstanding promissory and revolving notes from NexPoint Advisors, L.P. ("NexPoint") into a single promissory note with principal outstanding of \$30.7 million and accruing interest at a rate of 6.0% with straight-line amortization over 30 annual payments commencing in the year ended December 31, 2017. As of December 31, 2017, \$29.7 million of principal was outstanding on this note. No interest is outstanding as of December 31, 2017. Total interest expense for the year ended December 31, 2017, was approximately \$1.7 million. The fair value of the Partnership's outstanding note receivable approximates the carrying value of the note receivable.

During the year ended December 31, 2017, HCRE Partners, LLC ("HCRE") issued a promissory note to the Partnership in the amount of \$2.5 million. The note accrues interest at a rate of 8.0%. As of December 31, 2017 total interest and principal due on outstanding promissory notes was approximately \$8.5 million and is payable in annual installments throughout the term of the note. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2017, Highland Capital Management Services, Inc. ("HCMSI") issued promissory notes to the Partnership in the aggregate amount of \$2.0 million. All outstanding promissory notes accrue interest at a rate ranging from 2.58 - 2.78%, the long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2017 total interest and principal due on outstanding promissory notes was approximately \$14.1 million and is payable in annual installments throughout the term of the notes. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2017, James Dondero ("Dondero") did not issue any new promissory notes to the Partnership. The outstanding promissory note accrues interest at a rate of 2.03%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2017 total interest and principal due on outstanding promissory note was approximately \$14.5 million and is payable in annual installments throughout the term of the note. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

During the year ended December 31, 2017, Mark Okada ("Okada") did not issue any new promissory notes to the Partnership. All outstanding promissory notes accrue interest at a rate of 2.25%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2017 total interest and principal due on outstanding promissory notes was approximately \$1.3 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

During the year ended December 31, 2017, The Dugaboy Investment Trust ("Dugaboy") did not issue any new promissory notes to the Partnership. All outstanding promissory notes accrue interest at a rate of 2.75%, the average long-term applicable federal rate as promulgated by the Internal Revenue Service. As of December 31, 2017 total interest and principal due on outstanding promissory notes was approximately \$22.8 million and is payable on demand. The fair value of the Partnership's outstanding notes receivable approximates the carrying value of the notes receivable.

On December 21, 2015, the Partnership entered into a contribution agreement (the "Contribution Agreement") with an affiliated trust. Pursuant to the Contribution Agreement, a note (the "Note Receivable") in the amount of \$63.0 million was due to the Partnership. The Note Receivable will mature on December 21, 2030. The Note Receivable accrues interest at a rate of 2.61% per annum. Accrued interest is paid-in-kind, with principal receipts occurring pursuant to a note amortization schedule, with such annual receipts commencing December 21, 2019. During the year, the trust pre-paid \$5.7 million. As of December 31, 2017 total interest and principal due on the Note Receivable was approximately \$60.7 million.

Services Performed by or on Behalf of an Affiliate

In March 2007, Highland Capital of New York, Inc. a New York corporation ("Highland New York"), was formed and has performed marketing services for the Partnership and its affiliates in connection with the Partnership's investment management and advising business, including, but not limited to, assisting Highland Capital in the marketing and sales of interests in investment pools for which Highland Capital serves as the investment manager. The Partnership is charged a marketing services fee for the services that Highland New York performs on the Partnership's behalf. Separately, the Partnership pays for, and seeks reimbursement for, various operating expenses on behalf of Highland New York. For the year ended December 31, 2017, total marketing fee expense charged to the Partnership by Highland New York was approximately \$1.6 million. As of December 31, 2017, net amounts owed to the Partnership by Highland New York was approximately \$4.5 million.

Effective December 15, 2011, the Partnership commenced performing services on behalf of HCMFA, a Delaware limited partnership and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fee charged by the Partnership to HCMFA was approximately \$2.7 million and as of December 31, 2017, amount owed to the Partnership by HCMFA was approximately \$0.2 million.

Effective July 29, 2010, the Partnership commenced performing services on behalf of Falcon E&P Opportunities GP, LLC. ("Falcon"), a Delaware limited liability company and registered investment advisor. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fee charged by the Partnership to Falcon was approximately \$0.2 million and as of December 31, 2017, no amounts were owed to the Partnership by Falcon for services rendered.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Effective March 17, 2017, pursuant to the Third Amended and Restated Sub-Advisory Agreement and the Fourth Amended and Restated Shared Services Agreement, the Partnership continued performing services on behalf of Acis Capital Management, L.P. ("Acis"), a Delaware limited partnership and registered investment advisor. Subadvisory services include investment advisory services and shared services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fees charged by the Partnership to Acis for shared services and subadvisory fees were approximately \$4.8 million and \$6.5 million, respectively. As of December 31, 2017, amount owed to the Partnership by Acis was approximately \$1.9 million, against which the Partnership has recorded a \$1.6 million reserve based on estimated collectability.

Effective January 1, 2013, the Partnership commenced performing services on behalf of NexPoint. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fee charged by the Partnership to NexPoint was approximately \$0.6 million and as of December 31, 2017, \$0.1 million was owed to the Partnership by NexPoint for services rendered.

Effective September 1, 2017, pursuant to the Third Amended and Restated Shared Services Agreement dated September 26, 2017, the Partnership commenced performing services on behalf of NexBank Capital, Inc. ("NexBank Capital"), financial services company. Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fee charged by the Partnership to NexBank Capital was approximately \$0.2 million and as of December 31, 2017, \$0.1 million was owed to the Partnership by NexBank Capital for services rendered.

Effective September 1, 2017, pursuant to the Third Amended and Restated Investment Advisory Agreement dated September 26, 2017, the Partnership commenced performing services on behalf of NexBank SSB, ("NexBank"), a Texas savings bank. Services include investment advisory services. The Partnership charges a fee for the services performed. For the year ended December 31, 2017, the total fee charged by the Partnership to NexBank was approximately \$3.1 million and as of December 31, 2017, amounts owed by NexBank to the Partnership for services rendered were approximately \$0.9 million.

Effective April 1, 2015, the Partnership commenced performing services on behalf of NexPoint Real Estate Advisors, L.P. ("NREA"). Services include, but are not limited to compliance, accounting, human resources, IT and other back office support functions. NREA is charged a fee for the services provided. For the year ended December 31, 2017, the total fee charged to NREA by the Partnership was approximately \$0.6 million and as of December 31, 2017, amounts owed by NREA to the Partnership for services rendered were approximately \$0.6 million.

Investment liability

On January 28, 2016, the Partnership entered into a participation agreement with Cornerstone Healthcare Group Holding, Inc. ("Cornerstone") for securities purchased and held on their behalf which had a value of \$8.0 million as of the transaction date. The fair value of the Agreement will fluctuate with the fair value of the held securities, throughout the term of the Agreement. As of December 31, 2017 the fair value of the securities were \$14.2 million.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

On December 28, 2016, the Partnership entered into a purchase and sale agreement with The Get Good Nonexempt Trust ("Get Good"). In consideration for a note receivable from an affiliate, the Partnership sold or participated certain investments that it already held, with the participated investments carrying an aggregate market value of \$21.3 million as of the date of the transaction. The fair value of the Agreement will fluctuate with the fair value of the securities, throughout the term of the Agreement. During the course of the year, certain of the participated investments were monetized and proceeds were delivered to the holder of the participated interest. As of December 31, 2017, the fair value of the participated investments was \$10.9 million.

On August 25, 2015, Highland Select Equity Fund, L.P. ("Select") entered in to a promissory note with Dugaboy in the amount of \$1.0 million. The promissory note accrues interest at a rate of 2.82%, the long-term Applicable Federal Rate, compounded annually. The accrued interest and principal of the promissory note is due and payable on demand. As of December 31, 2017 the remaining principal payable on the promissory note was \$1.0 million. The fair value of Select's outstanding notes payable approximates the carrying value of the notes payable.

On December 5, 2016, Select entered in to Stock Purchase Agreements with two counterparties for shares of Trussway Industries ("Trussway"), in exchange for promissory notes in the aggregate amount of \$15.4 million, plus in the event of a sale of Trussway on or prior to June 1, 2017, 50% of the excess of the price per share over the closing date price per share. The promissory notes accrue interest at a rate of 2.07%, the long-term Applicable Federal Rate, compounded annually. Select must pay one-twenty-fifth of the initial note amounts, plus any additional principal attributable to the sale of Trussway, along with accumulated interest on an annual basis. The promissory notes will mature on December 5, 2041. As of December 31, 2017 the remaining principal payable on the promissory notes was \$15.4 million. The fair value of Select's outstanding notes payable approximates the carrying value of the notes payable.

During 2014 and 2015, Select received multiple master securities loan agreements (the "Securities Agreements") for securities borrowed from an affiliate. The Securities Agreements accrue interest at a rate ranging from 0.38 - 0.48%, the short term Applicable Federal Rate. The fair value of the securities loans will fluctuate with the fair value of the borrowed securities, throughout the term of the Securities Agreements. As of December 31, 2017, the fair value of the loans was \$42.5 million. The fair value of Select's securities loans approximates the carrying value of the securities loans.

10. Notes Payable

Promissory Note

On August 17, 2015, the Partnership entered in to a promissory note with Frontier State Bank in the amount of \$9.5 million. The promissory note will mature on August 17, 2018. The promissory note accrues interest at the 3 month LIBOR rate plus 4.75%, adjusted each date of change, per annum. Accrued interest shall be paid quarterly. The promissory note is collateralized by shares of voting common stock of MGM Holdings, Inc. As of December 31, 2017 the remaining principal payable on the promissory note was \$6.9 million. The fair value of the Partnership's outstanding notes payable approximates the carrying value of the notes payable.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

On October 7, 2016, the Partnership entered in to a promissory note with Acis in the amount of \$12.7 million. The Partnership is required to make certain payments of the initial note amount, plus accumulated interest on May 31 of each year, until maturity. The promissory note is set to mature on May 31, 2019. The promissory note accrues interest at a rate of 3.00% per annum. Pursuant to an Assignment and Transfer Agreement dated November 3, 2017, between Acis and an affiliate of the Partnership, Acis transferred the promissory note to the affiliate. As of December 31, 2017 the remaining principal payable on the promissory note was \$9.5 million.

On August 29, 2016, Maple Avenue Holdings, LLC ("Maple") entered in to a promissory note with Great Southern Bank in the amount of \$3.9 million. Maple must pay principal and accrued interest installments on a monthly basis until maturity. The promissory note will mature on September 10, 2041. The promissory note accrues interest at a rate of 3.26% per annum. As of December 31, 2017 the remaining principal payable on the promissory note was \$3.6 million. The fair value of Maple's outstanding notes payable approximates the carrying value of the notes payable.

11. Due to Broker

As of December 31, 2017 the due to broker balance of approximately \$104.9 million is payable to financing counterparties for margin transactions.

12. Commitments and Contingencies

Contracts in the Normal Course of Business

In the normal course of business the Partnership and its subsidiaries may enter into contracts which provide general indemnifications and contain a variety of presentations and warranties that may expose the Partnership and its subsidiaries to some risk of loss. The Partnership regularly co-invests in vehicles it advises. The amounts committed are within the Partnerships capacity to fund when capital is called. In addition to the other financial commitments discussed in the consolidated financial statements, the amount of future losses arising from such undertakings, while not quantifiable, is not expected to be significant. Also refer to Note 9 for commitments of certain subsidiaries in affiliated loans.

Legal Proceedings

The Partnership is a party to various legal proceedings arising in the ordinary course of business. While any proceeding or litigation has an element of uncertainty, management believes that the final outcome will not have a materially adverse effect on the Partnership's Consolidated Balance Sheet, Consolidated statement of Income, or its liquidity. See Note 15.

Operating Leases

The Partnership has an operating lease and associated commitments related to its main office space. Future minimum lease payments under operating lease commitments with initial or non-cancelable terms in excess of one year, at inception, are as follows:

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

(in thousands)

Years Ending December 31,	
2018	1,521
2019	1,550
2020	1,566
2021	1,567
2022	522
Total	<u>\$ 6,725</u>

Total rental expense of the Partnership and its Consolidated Entities for operating leases was approximately \$1.5 million for the year ended December 31, 2017.

13. Post Retirement Benefits

In December 2006, the Partnership created a defined benefit plan to which all employees and certain affiliated persons could participate if they met the eligibility requirements. The Partnership uses a December 31 measurement date for its defined benefit plan.

Effective December 31, 2008, the Partnership amended the plan by freezing it to new participants and additional benefit accruals. A new amendment became effective on January 1, 2011 in which a named participant was admitted to the plan and is eligible to earn benefit accrual. 2017 expense reflects a service cost charge for the value of the new participant's benefit earned during 2017.

The Partnership's benefit plan obligation and plan assets for the year ended December 31, 2017 are reconciled in the tables below.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

(in thousands)

Change in projected benefit obligation	2017
Benefit obligation at beginning of year	\$ 2,301
Service cost	6
Interest cost	79
Plan participants' contributions	-
Amendments	-
Actuarial loss/(gain)	478
Acquisition/(divestiture)	-
Benefits paid	(286)
Benefit obligation at end of year	<u>\$ 2,578</u>
Change in plan assets	2017
Fair value of plan assets at beginning of year	\$ 2,570
Actual return on plan assets	640
Acquisition/(divestiture)	-
Employer contribution	-
Plan participants' contributions	-
Benefits paid	(286)
Other increase/(decrease)	-
Fair value of plan assets at year end	<u>\$ 2,924</u>
Reconciliation of Funded Status	2017
Accumulated benefit obligation at end of year	\$ 2,578
Projected benefit obligation at end of year	2,578
Fair value of assets at end of year	<u>2,924</u>
Funded status at end of year	<u>\$ 346</u>

The Partnership did not contribute to the plan during 2017.

Assumptions

Weighted-average assumptions used to determine benefit obligations at December 31, 2017:

Discount rate	3.19%
Rate of compensation increase	N/A

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Weighted-average assumptions used to determine net periodic benefit cost at December 31, 2017:

Discount rate	3.69%
Expected long-term return on plan assets	3.69%
Rate of compensation increase	N/A

As of December 31, 2017, there were no plan assets categorized as Level 3.

14. Income Taxes

The Partnership

For U.S. income tax purposes, the Partnership is treated as a pass-through-entity, which means it is not subject to income taxes under current Internal Revenue Service or state and local guidelines. Each partner is individually liable for income taxes, if any, on their share of the Partnership's net taxable income.

The Partnership files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2017, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2014 forward (with limited exceptions).

Authoritative guidance on accounting for and disclosure of uncertainty in tax positions requires the General Partner to determine whether a tax position of the Partnership is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that as a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2017.

Multi Strategy Master

For U.S. income tax purposes, Multi Strategy Master is treated as a pass-through entity, which means it is not subject to federal income taxes under current Internal Revenue Service guidelines. However, each investor may be individually liable for income taxes, if any, on its share of the partnership's net taxable income.

Multi Strategy Master trades in senior secured syndicated bank loans for its own account and, as such, non-U.S. Investment Vehicle investors are generally not subject to U.S. tax on such earnings (other than certain withholding taxes indicated below). The Partnership intends to conduct Multi Strategy Master business in such a manner that it does not constitute a U.S. trade or business, nor does it create a taxable presence in any of the jurisdictions in which the Partnership has offices.

Dividends as well as certain interest and other income received by Multi Strategy Master from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by Multi Strategy Master from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced. As of December 31, 2017, a minimal withholding tax liability of \$0.1 million is classified within accrued and other liabilities on the Consolidated Balance Sheet.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Multi Strategy Master applies authoritative guidance which requires management to determine whether a tax position Multi Strategy Master is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the consolidated financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relative taxing authority. Management does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2017.

Multi Strategy Master files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, Multi Strategy Master is subject to examination by federal and foreign jurisdictions, where applicable. As of December 31, 2017, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2014 forward (with limited exceptions).

Restoration Onshore

Restoration Onshore is treated as a pass-through entity for tax purposes, which means it is not subject to U.S. income taxes under current Internal Revenue Service or state and local guidelines. Each Partner is individually liable for income taxes, if any, on its share of the Restoration Onshore's net taxable income. Interest, dividends and other income realized by Restoration Onshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Onshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Onshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority.

The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2017. Restoration Onshore files tax returns as prescribed by the tax laws of the jurisdictions in which it operates. In the normal course of business, the Partnership is subject to examination by federal, state, local and foreign jurisdictions, where applicable. As of December 31, 2017, the tax years that remain subject to examination by the major tax jurisdictions under the statute of limitations is from the year 2014 forward (with limited exceptions).

Restoration Offshore

Restoration Offshore is a Cayman Islands exempted company. Under the current laws of the Cayman Islands, there is no income, estate, transfer, sales or other tax payable by Restoration Offshore. Restoration Offshore has elected to be treated as a corporation for U.S. tax purposes and files a protective 1120-F.

The General Partner intends to conduct the business of Restoration Offshore in such a way that Restoration Offshore's activities do not constitute a U.S. trade or business and any income or realized gains earned by Restoration Offshore do not become "effectively connected" with a trade or business carried on in the United States for U.S. federal income tax purposes.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

Dividends as well as certain interest and other income received by the master partnership of Restoration Offshore from sources within the United States may be subject to, and reflected net of, United States withholding tax at a rate of 30% for non-U.S. Investment Vehicles. Interest, dividend and other income realized by the master partnership of Restoration Offshore from non-U.S. sources and capital gains realized on the sale of securities of non-U.S. issuers may be subject to withholding and other taxes levied by the jurisdiction in which the income is sourced.

Restoration Offshore applies the authoritative guidance on accounting for and disclosure of uncertainty in tax positions, which requires the General Partner to determine whether a tax position of Restoration Offshore is more likely than not to be sustained upon examination, including resolution of any related appeals or litigation processes, based on the technical merits of the position. For tax positions meeting the more likely than not threshold, the tax amount recognized in the financial statements is the largest benefit that has a greater than fifty percent likelihood of being realized upon ultimate settlement with the relevant taxing authority. The General Partner has determined that there was no effect on the financial statements from the Partnership's application of this authoritative guidance. The General Partner does not expect a significant change in uncertain tax positions during the twelve months subsequent to December 31, 2017. As of December 31, 2017, the tax years that remain subject to examination by major tax jurisdictions under the statute of limitations is from the year 2014 forward (with limited exceptions). During the year, Restoration Offshore received approximately \$0.7 million related to a tax refund. This amount is reflected in the Statement of Cash Flows as a component of changes in other assets.

The remaining entities consolidated by the Partnership had no uncertain tax positions which required accrual under U.S. GAAP.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

15. Legal Proceedings

On July 15, 2008, Highland Offshore Partners, Multi Strategy Master, certain affiliates, and numerous external parties (collectively, the "Defendants") were named as parties to an action filed with the Bankruptcy Court of the Southern District of Florida ("the Touse action"). The action related to a secured lending transaction and subsequent refinancing arrangement in which the Defendants participated. On October 13, 2009, the Bankruptcy Court ruled in favor of the plaintiffs and ordered the Defendants to disgorge the principal, interest, and fees they received in connection with the refinancing arrangement. In addition, the Court ordered the defendants to pay simple interest on the disgorged amount at an annual rate of 9%. The Defendants believed they acted in good faith pursuant to the terms of the relevant agreements and appealed the decision. In February 2011, the District Court of Florida quashed the judgment against the Defendants and overturned the ruling that resulted in the Defendants recording the reserve. The plaintiffs appealed the ruling of the District Court, and the issue was sent to the Eleventh Circuit of Florida. On May 15, 2012, the Eleventh Circuit unexpectedly reversed the District Court's ruling, and remanded the case back to the District Court for review. The last such case was heard by the US Supreme Court case on January 14, 2015. On June 23, 2015, the District Court remanded the case back to the Bankruptcy Court for a report and recommendations regarding the effects of certain settlements on the Plaintiff's available damages. On April 1, 2016, the Bankruptcy Court issued its Report and Recommendations to the District Court. Briefing on the Report and Recommendations was completed in June 2016. On March 8, 2017, the District Court substantially adopted the Bankruptcy Court Report and Recommendations, which affirmed the Defendants' liability. The case has now been returned to the Eleventh Circuit for additional appeals. Based on the ruling, the Consolidated Entities recorded a combined reserve of approximately \$5.8 million as of December 31, 2016. During 2017, the Consolidated Entities settled the Touse action for approximately \$7.7 million. Final settlement and dismissal was approved by the court on January 12, 2018. The difference (approximately \$2.0 million) between the amount accrued at December 31, 2016 and the amount paid was included in the Consolidate Income Statement as a realized loss.

The Partnership and certain affiliated investment vehicles are defendants in a complaint filed on February 24, 2009 New York state court by UBS Securities LLC and UBS AG, London Branch relating to a CLO warehouse facility with respect to which UBS is attempting to extend liability beyond the two entities that bore sole risk of loss under the governing documents. On February 19, 2010, the court dismissed all claims against the Partnership. UBS since has filed additional claims against the Partnership and certain additional investment vehicles. On July 21, 2011, the First Appellate Division again dismissed two of UBS's four claims against the Partnership, severely limiting the remaining two claims. Additional claims were dismissed in a further appellate ruling issued on October 31, 2017. The trial court has not indicated when UBS's remaining claims against the Partnership will go to trial.

From time to time the Partnership is party to disputes with disgruntled former employees. One such matter involves a former employee that improperly recorded internal conversations in violation of the Partnership's internal policies and procedures and potentially certain criminal and regulatory provisions. The former employee has asserted counterclaims related to his time employed by the Partnership. Arbitration on the matter has resolved and the matter is proceeding in Texas state and federal court.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Notes to Consolidated Financial Statements
December 31, 2017

In another matter, a Court ruled that a former employee breached his fiduciary duty to the Partnership, owed damages to the Partnership, and ordered the former employee to cease using or disclosing the Partnership's confidential information. Additionally, an award was entered in favor of the employee against a separate incentive compensation entity for an interest that was already escrowed in his name prior to trial and in which he was already vested. The dispute over the amount of his vested interest is on-going. Additionally, the Partnership from time to time must take action to enforce the permanent injunction against the former employee's continuing improper disclosures of the Partnership's confidential information.

The Partnership is engaged in litigation with a group of investors relating to the post-financial crisis wind down and distribution of the remaining assets in the Crusader hedge fund vehicle.

The Partnership was engaged in litigation with a group of investors relating to the post-financial crisis wind down and distribution of the remaining assets in the Credit Strategies Fund. On May 12, 2017, the Partnership entered into an agreement, approved by the independent Redeemer Committee of the Credit Strategies Fund, whereby the Partnership and Highland New York paid the Credit Strategies Fund \$23.0 million in exchange for the remaining assets of the Credit Strategies Fund and releases from the on-going litigation between the Partnership and the Redeemer Committee. Related to this transaction and release of on-going litigation claims of the Partnership, Cornerstone Health Care Group, Inc., with the approval of a special committee of its independent directors, paid indemnification to the Partnership in the amount of \$17.4 million, which is recorded in Other income on the Consolidated Statement of Income. Of the \$23.0 million paid, \$14.3 million is recorded as a settlement expense which is a reduction to Other income on the Consolidated Statement of Income.

The Partnership currently is and has been previously subject to various legal proceedings, many of which have been due to the nature of operating in the distressed loan business in the U.S. The legal process is often the route of last resort to recover amounts due from delinquent borrowers. We currently do not anticipate these proceedings will have a material negative impact to the Partnership.

16. Subsequent Events

Over the course of 2018, through the report date, James Dondero issued promissory notes to the Partnership in the amount of \$11.7 million. The notes accrue interest at a rate ranging from 2.59%-2.66%.

The Partnership has performed an evaluation of subsequent events through May 18, 2018, which is the date the consolidated financial statements were available to be issued, and has determined that there are no other material subsequent events that would require disclosure in the Partnership's consolidated financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
As of And Year Ended December 31, 2017
Supplemental Information

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Balance Sheet
December 31, 2017

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Assets				
Cash and cash equivalents	\$ 10,237	\$ 93,242	\$ -	\$ 103,479
Investments at fair value	181,987	874,393	-	1,056,380
Equity method investees	180,938	-	(180,938)	-
Management and incentive fees receivable	10,916	945	-	11,861
Due from brokers	-	2,287	-	2,287
Other assets	12,368	7,113	(4,807)	14,674
Notes and other amounts due from affiliates	165,724	-	(2,321)	163,403
Other intangible assets	2,830	3,500	-	6,330
Fixed assets and leasehold improvements, net of accumulated depreciation of \$9,880	5,775	57	-	5,832
Total assets	\$ 570,775	\$ 981,537	\$ (188,066)	\$ 1,364,246
Liabilities and partners' capital				
Liabilities				
Accounts payable	\$ 4,296	\$ 140	\$ -	\$ 4,436
Securities sold, not yet purchased	-	95,403	-	95,403
Withdrawals payable	-	140,955	-	140,955
Due to affiliates	4,509	-	(4,509)	-
Due to brokers	35,833	69,772	(709)	104,896
Accrued and other liabilities	34,468	4,313	400	39,181
Notes payable	16,420	5,885	(2,310)	19,995
Investment liabilities	25,072	59,287	-	84,359
Total liabilities	120,598	375,755	(7,128)	489,225
Non-controlling interest	-	424,844	-	424,844
Commitments and contingencies				
Partners' capital	450,177	180,938	(180,938)	450,177
Total liabilities and partners' capital	\$ 570,775	\$ 981,537	\$ (188,066)	\$ 1,364,246

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Consolidating Statement of Income
Year Ended December 31, 2017

<i>(in thousands)</i>	Highland Capital Management, L.P.	All Other Consolidated Entities	Eliminations	Total Consolidated
Revenue:				
Management fees	\$ 37,098	\$ 777	\$ -	\$ 37,875
Interest and investment income	4,479	16,643	-	21,122
Incentive fees	10,042	1,753	-	11,795
Shared services fees	9,445	-	-	9,445
Other income	6,846	2,944	-	9,790
Total revenue	67,910	22,117	-	90,027
Expenses:				
Compensation and benefits	36,312	942	-	37,254
Professional fees	12,166	2,591	-	14,757
Interest expense	1,669	3,839	-	5,508
Marketing and advertising expense	2,374	-	-	2,374
Depreciation and amortization	1,333	7	-	1,340
Investment and research consulting	1,101	-	-	1,101
Bad debt expense	2,279	-	-	2,279
Other operating expenses	6,965	950	-	7,915
Total expenses	64,199	8,329	-	72,528
Other income	11,967	-	-	11,967
Income before investment and derivative activities	15,678	13,788	-	29,466
Realized and unrealized gain/(loss) on investments and derivatives:				
Net realized loss on investments and derivatives	6,495	(16,177)	-	(9,682)
Net change in unrealized gain on investments and derivatives	8,853	106,030	-	114,883
Net realized and unrealized gain on investments and derivatives	15,348	89,853	-	105,201
Net unrealized earnings from equity method investees	21,581	-	(21,581)	-
Net income	52,607	103,641	(21,581)	134,667
Net income attributable to non-controlling interest	-	82,060	-	82,060
Net income attributable to Highland Capital Management, L.P.	\$ 52,607	\$ 21,581	\$ (21,581)	\$ 52,607

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Balance Sheet
December 31, 2017

(in thousands)

Assets

Current assets:

Cash and cash equivalents	\$	10,237
Investments at fair value (cost \$267,265)*		321,211
Equity method investees		41,714
Management and incentive fees receivable		10,916
Other assets		12,368
Notes and other amounts due from affiliates		165,724
Other intangible assets		2,830
Fixed assets and leasehold improvements, net of accumulated depreciation of \$9,873		5,775

Total assets	\$	570,775
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Liabilities and partners' capital

Liabilities

Accounts payable	\$	4,296
Due to affiliate		4,509
Due to brokers		35,833
Accrued and other liabilities		34,468
Notes payable		16,420
Investment liabilities		25,072

Total liabilities		120,598
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Partners' capital		450,177
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Total liabilities and partners' capital	\$	570,775
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*Investments, at fair value includes \$144.9 million of limited partnership interest ownership of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2017 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited financial statements.

Highland Capital Management, L.P.
(A Delaware Limited Partnership)
Supplemental Unconsolidated Statement of Income
Year Ended December 31, 2017

(in thousands)

Revenue:

Management fees	\$ 37,098
Incentive fees	10,042
Shared services fees	9,445
Interest and investment income	4,479
Miscellaneous income	6,846
Total revenue	<u>67,910</u>

Expenses:

Compensation and benefits	36,312
Professional fees	12,166
Marketing and advertising expense	2,374
Interest expense	1,669
Depreciation and amortization	1,333
Investment and research consulting	1,101
Bad debt expense	2,279
Other operating expenses	6,965
Total expenses	<u>64,199</u>

Other income 11,967

Income before investment activities 15,678

Realized and unrealized gains/losses on investments:

Net realized gain on sale of investments	6,495
Net change in unrealized gain on investments*	<u>27,323</u>
Total realized and unrealized gain on investments	<u>33,818</u>

Income from equity method investees: 3,111

Net income \$ 52,607

*Net change in unrealized gain on investments includes \$ 18.5 million of unrealized gains from holdings of limited partnership interests of Consolidated Investment Funds, which are discussed in Footnote 2. These entities are consolidated because the Partnership controls the general partner of the respective entities and is responsible for the daily operations of the entities.

The above information was derived from the audited December 31, 2017 consolidated financial statements of Highland Capital Management, L.P. This information should be read in conjunction with such audited consolidated financial statements.

EXHIBIT 73

Payment history - Retired Dondero notes

Date	"Restructure note"			January 18, 2018 Note		Total Received in respect of retired notes
	Total Dondero payment amount	Principal	Interest	Principal	Interest	
12/8/2017	\$ 677,501	\$ 499,242	\$ 178,258	\$ -	\$ -	\$ 677,501
5/31/2018	-	(120,949)	120,949	-	-	-
12/18/2018	2,000,000	-	-	1,812,768	187,232	2,000,000
12/19/2018	782,623	499,242	283,381	-	-	782,623
1/18/2019	-	-	-	(13,390)	13,390	-
2/14/2019	3,000,000	2,955,463	44,537	-	-	3,000,000
3/13/2019	5,000,000	4,983,447	16,553	-	-	5,000,000
5/2/2019	2,400,000	2,383,204	16,796	-	-	2,400,000
5/3/2019	4,400,000	3,777,624	(118,479)	740,855	-	4,400,000
5/7/2019	600,000	-	-	600,000	-	600,000
5/23/2019	1,500,000	-	-	1,500,000	-	1,500,000
6/7/2019	3,000,000	-	-	3,000,000	-	3,000,000
12/23/2019	783,012	-	-	259,767	59,517	319,284 *
Total	\$ 24,143,136	\$ 14,977,274	\$ 541,995	\$ 7,900,000	\$ 260,139	\$ 23,679,408

* Difference between total payment of \$783k and amount applied to January 18, 2018 note of \$319k was applied to the still outstanding notes as follows:

2/2/18 Note: \$239,475.29 principal, \$166,840.32 interest or \$406,315.61 total

8/1/18 Note: \$29,954.22 interest

8/13/18 Note: \$27,458.03 interest

Total of \$463,727.86 applied

EXHIBIT 74

PROMISSORY NOTE

\$3,825,000

February 2, 2018

FOR VALUE RECEIVED, JAMES DONDERO ("*Maker*") promises to pay to the order of HIGHLAND CAPITAL MANAGEMENT LP ("*Payee*"), in legal and lawful tender of the United States of America, the principal sum of THREE MILLION, EIGHT HUNDRED AND TWENTY-FIVE THOUSAND and 00/100 Dollars (\$3,825,000.00), together with interest, on the terms set forth below (the "*Note*"). All sums hereunder are payable to Payee at 300 Crescent Court, Dallas, TX 75201, or such other address as Payee may specify to Maker in writing from time to time.

1. Interest Rate. The unpaid principal balance of this Note from time to time outstanding shall bear interest at a rate equal to the long-term "*applicable federal rate*" (2.66%) in effect on the date hereof for loans of such maturity as determined by Section 1274(d) of the Internal Revenue Code, per annum from the date hereof until maturity, compounded annually on the anniversary of the date of this Note. Interest shall be calculated at a daily rate equal to 1/365th (1/366 in a leap year) of the rate per annum, shall be charged and collected on the actual number of days elapsed, and shall be payable on demand of the Payee.

2. Payment of Principal and Interest. The accrued interest and principal of this Note shall be due and payable on demand of the Payee.

3. Prepayment Allowed; Renegotiation Discretionary. Maker may prepay in whole or in part the unpaid principal or accrued interest of this Note. Any payments on this Note shall be applied first to unpaid accrued interest hereon, and then to unpaid principal hereof.

4. Tax Loan. This Note is paid to the Maker to help satisfy any current tax obligations of a former partner or current partner.

5. Acceleration Upon Default. Failure to pay this Note or any installment hereunder as it becomes due shall, at the election of the holder hereof, without notice, demand, presentment, notice of intent to accelerate, notice of acceleration, or any other notice of any kind which are hereby waived, mature the principal of this Note and all interest then accrued, if any, and the same shall at once become due and payable and subject to those remedies of the holder hereof. No failure or delay on the part of Payee in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

6. Waiver. Maker hereby waives grace, demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices of any kind hereunder.

7. Attorneys' Fees. If this Note is not paid at maturity (whether by acceleration or otherwise) and is placed in the hands of an attorney for collection, or if it is collected through a bankruptcy court or any other court after maturity, the Maker shall pay, in addition to all other

Exhibit 1

Appx. 01339

amounts owing hereunder, all actual expenses of collection, all court costs and reasonable attorneys' fees and expenses incurred by the holder hereof.

8. Limitation on Agreements. All agreements between Maker and Payee, whether now existing or hereafter arising, are hereby limited so that in no event shall the amount paid, or agreed to be paid to Payee for the use, forbearance, or detention of money or for the payment or performance of any covenant or obligation contained herein or in any other document evidencing, securing or pertaining to this Note, exceed the maximum interest rate allowed by law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between Payee and Maker in conflict herewith.

9. Governing Law. This Note and the rights and obligations of the parties hereunder shall be governed by the laws of the United States of America and by the laws of the State of Texas, and is performable in Dallas County, Texas.

MAKER:



A handwritten signature in blue ink, appearing to read 'James Dondero', is written over a horizontal line. The signature is stylized with a large initial 'J' and a long, sweeping underline.

JAMES DONDERO

EXHIBIT 75

HIGHLAND CAPITAL
MANAGEMENT, LP

OPERATING RESULTS

February 2018

Exhibit 2

Highland Capital Management, L.P.
Significant Items Impacting HCMLP's Balance Sheet
February 2018

CLOs

[REDACTED]

Operating Activities

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Investments

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Other

- (\$3.8M) partner loan

Highland Capital Management, L.P.
Financial/Operational Highlights
February 2018 Close Package
(in millions)

	<u>11/30/2017</u>	<u>12/31/2017</u>	<u>1/31/2018</u>	<u>2/28/2018</u>
Cash	\$ 6.4	\$ 10.2	\$ 2.2	\$ 9.6
Operating Revenue	\$ 4.3	\$ 13.9	\$ 4.2	\$ 4.4
Operating Expenses ⁽¹⁾	(4.2)	(19.7)	(3.7)	(4.5)
Operating Income	\$ 0.1	\$ (5.8)	\$ 0.5	\$ (0.1)
Add back: Non-Recurring Items	\$ -	\$ -	\$ -	\$ -
Adjusted Operating Income	\$ 0.1	\$ (5.8)	\$ 0.5	\$ (0.1)
Net Income/(Loss)	\$ 20.4	\$ 17.0	\$ 7.2	\$ (26.1)

	<u>MTD</u>	<u>YTD</u>	<u>LTM</u>
Operating Cash Flow ⁽²⁾	\$ (6.0)	\$ (4.2)	\$ (7.6)
Interest Expense	(0.1)	(0.2)	(1.6)
Adjusted Operating Cash Flow	\$ (6.1)	\$ (4.4)	\$ (9.2)

<u>Assets Under Management (billions)</u>	<u>11/30/2017</u>	<u>12/31/2017</u>	<u>1/31/2018</u>
CLO 1.0	\$ 2.1	\$ 1.9	\$ 1.8
Sep. Accounts	1.9	2.0	2.0
Hedge/PE	1.1	1.1	1.1
Total	\$ 5.0	\$ 5.0	\$ 4.9

<u>Headcount - including affiliates</u>	<u>11/30/2017</u>	<u>12/31/2017</u>	<u>1/31/2018</u>	<u>2/28/2018</u>
Front Office	47	45	45	42
Institutional Marketing and Client Service	7	7	9	8
Legal	14	15	15	16
Admin	13	14	13	13
Retail Operations (HCMLP)	4	4	4	4
Back Office	41	38	39	39
HCFD/NSI	21	21	17	16
HCMF Strategy/Marketing	5	5	5	5
Total	152	149	147	143

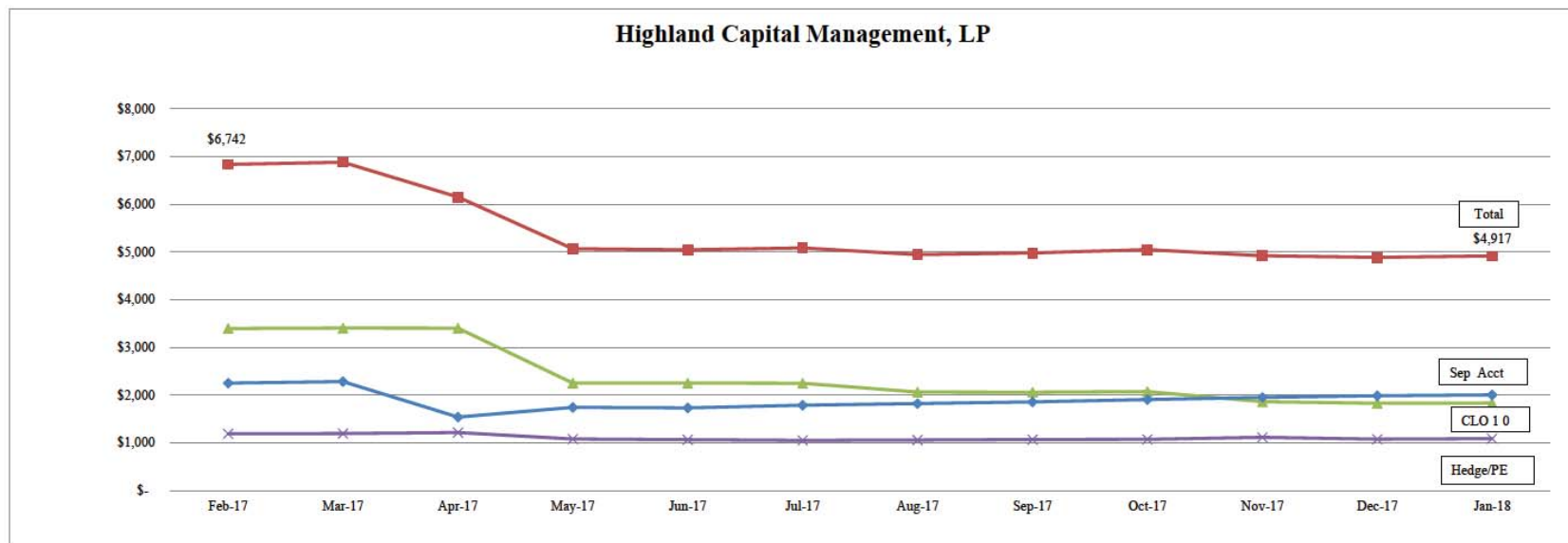
Notes:

(1) Excludes deferred compensation MTM

(2) Operating Cash Flow = Operating Income + Dep. + Deferred Comp + Non-Cash Bonus Expense

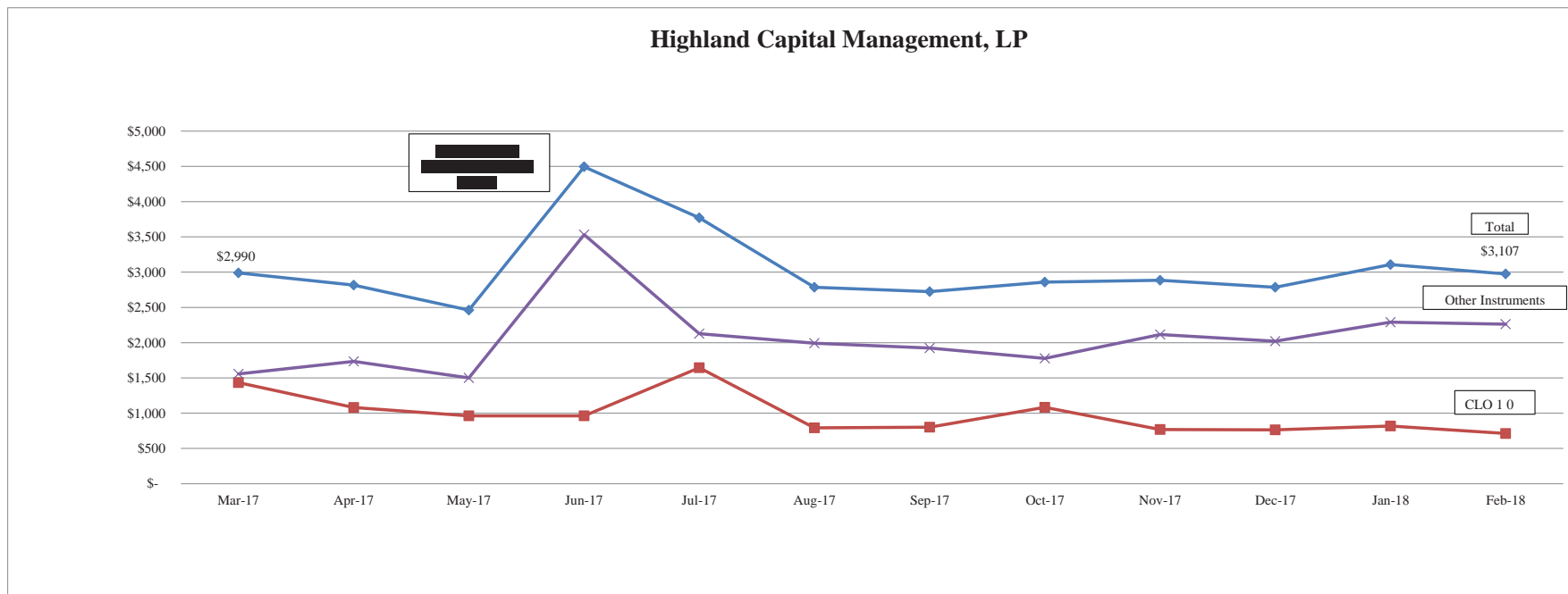
HCMLP Rolling Fee Earning AUM Schedule
(in millions)

	2/28/2017	3/31/2017	4/30/2017	5/31/2017	6/30/2017	7/31/2017	8/31/2017	9/30/2017	10/31/2017	11/30/2017	12/31/2017	1/31/2018
CLO 10	\$ 3,396	\$ 3,405	\$ 3,402	\$ 2,250	\$ 2,250	\$ 2,249	\$ 2,063	\$ 2,060	\$ 2,072	\$ 1,859	\$ 1,827	\$ 1,831
Sep Accounts	2,251	2,282	1,538	1,741	1,732	1,787	1,823	1,855	1,905	1,951	1,987	2,003
Hedge/PE	1,189	1,195	1,213	1,076	1,065	1,049	1,058	1,067	1,072	1,112	1,073	1,084
Total	\$ 6,742	\$ 6,882	\$ 6,153	\$ 5,067	\$ 5,047	\$ 5,085	\$ 4,945	\$ 4,981	\$ 5,049	\$ 4,922	\$ 4,887	\$ 4,917



HCMLP Monthly Management Fees
(in thousands)

	3/31/2017	4/30/2017	5/31/2017	6/30/2017	7/31/2017	8/31/2017	9/30/2017	10/31/2017	11/30/2017	12/31/2017	1/31/2018	2/28/2018
CLO 1 0	\$ 1,433	\$ 1,081	\$ 961	\$ 961	\$ 1,644	\$ 793	\$ 802	\$ 1,082	\$ 768	\$ 765	\$ 817	\$ 713
Sep Accounts	577	762	586	327	792	635	563	516	678	584	622	626
Subadvised Account	566	526	505	588	538	520	529	447	620	621	491	497
Hedge/PE Funds	414	446	409	2,617	797	837	831	814	818	817	1,177	1,138
Total	\$ 2,990	\$ 2,815	\$ 2,462	\$ 4,494	\$ 3,771	\$ 2,785	\$ 2,725	\$ 2,860	\$ 2,885	\$ 2,786	\$ 3,107	\$ 2,974



HIGHLAND CAPITAL MANAGEMENT, L.P.

Statement of Income Twelve Months Ended February 2018 (in thousands)

	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	LTM	YTD
Revenue:														
Management fees	\$ 2,990	\$ 2,815	\$ 2,462	\$ 4,494	\$ 3,771	\$ 2,785	\$ 2,725	\$ 2,860	\$ 2,885	\$ 3,265	\$ 3,129	\$ 2,974	\$ 37,154	\$ 6,103
Shared services fees	817	871	794	620	779	803	757	732	871	873	930	866	9,713	1,796
Incentive fees	-	-	-	-	-	-	-	-	-	10,057	-	-	10,057	-
Other income	431	217	560	477	274	614	562	234	586	912	215	596	5,679	811
Total operating revenue	4,237	3,904	3,816	5,591	4,824	4,202	4,043	3,827	4,342	15,107	4,274	4,436	62,603	8,710
Operating expenses:														
Compensation and benefits	2,769	2,539	2,495	2,702	2,885	2,800	2,368	2,308	2,795	2,692	2,755	2,769	31,876	5,524
Deferred compensation	222	243	157	214	426	50	297	286	755	291	159	101	3,201	260
Professional services	629	307	1,168	511	616	1,531	472	1,031	649	16,650	181	314	24,060	495
Investment research and consulting	226	175	8	208	14	15	160	22	8	242	13	20	1,111	33
Depreciation	110	110	110	114	112	112	113	112	112	108	109	108	1,328	217
Other operating expenses	875	684	702	1,021	645	988	805	723	497	662	580	683	8,866	1,263
Total operating expenses	4,831	4,057	4,640	4,770	4,697	5,495	4,216	4,482	4,816	20,646	3,798	3,995	70,442	7,793
Operating income	(594)	(153)	(824)	821	127	(1,292)	(172)	(655)	(474)	(5,539)	476	441	(7,839)	917
Other income/expense:														
Interest and investment income, net	478	454	493	661	606	558	532	574	937	839	612	473	7,219	1,086
Interest expense	(143)	(141)	(149)	(146)	(142)	(148)	(136)	(141)	(134)	(147)	(141)	(65)	(1,632)	(206)
Other income/expense	59	170	4,060	947	39	13	63	77	64	19,147	81	64	24,784	145
Total other income/expense	394	484	4,405	1,462	503	424	459	510	867	19,839	552	472	30,370	1,024
Realized and unrealized gain/(loss) from investments:														
Net realized gain/(loss) on sale of investment transactions	1,547	(20)	2,560	272	496	2,811	-	22	-	(1,155)	-	-	6,533	-
Net change in unrealized gain/(loss) of investments	(189)	(460)	4,729	4,338	3,144	(9,361)	9,180	(1,004)	6,375	2,170	10,678	(10,201)	19,398	477
Total realized and unrealized gain/(loss) from investments	1,358	(480)	7,290	4,610	3,640	(6,550)	9,180	(982)	6,375	1,015	10,678	(10,201)	25,931	477
Earnings and losses from equity method investees														
	225	235	(16)	258	44	(201)	333	12	200	329	926	(210)	2,135	716
	(2,857)	(558)	(624)	818	(1,908)	1,709	(1,136)	(203)	4,333	529	(1,674)	(5,137)	(6,708)	(6,811)
	(5,870)	(1,935)	(1,352)	1,692	(3,860)	3,454	(2,300)	(419)	8,353	1,019	(3,731)	(11,446)	(16,395)	(15,177)
	-	-	-	-	-	9	0	15	-	18	-	-	42	-
	-	(184)	-	(6)	(15)	-	(14)	(18)	11	102	-	-	(125)	-
	-	-	-	-	-	-	-	-	768	-	-	-	768	-
	-	-	(1,534)	-	-	-	-	-	-	-	-	-	(1,534)	-
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total earnings/(loss) from equity method investees	(8,502)	(2,441)	(3,525)	2,762	(5,740)	4,971	(3,118)	(613)	13,664	1,996	(4,479)	(16,794)	(21,817)	(21,273)
Net income	(7,345)	(2,591)	7,345	9,655	(1,470)	(2,447)	6,348	(1,739)	20,432	17,311	7,227	(26,081)	\$ 26,645	\$ (18,854)
Profit margin	-173%	-66%	192%	173%	-30%	-58%	157%	-45%	471%	115%	169%	-588%	43%	-216%
Operating Cash Flow Calculation:														
Operating income	(594)	(153)	(824)	821	127	(1,292)	(172)	(655)	(474)	(5,539)	476	441	(7,839)	917
Add Depreciation expense	110	110	110	114	112	112	113	112	112	108	109	108	1,328	217
Adjustment Deferred compensation	(2,767)	243	157	214	426	50	297	286	755	291	159	(489)	(378)	(330)
Bonus awards	1,000	956	1,000	1,000	1,000	(5,190)	986	1,000	1,300	1,300	1,000	(6,049)	(696)	(5,049)
Operating Cash Flow	(2,251)	1,155	442	2,149	1,664	(6,320)	1,224	743	1,693	(3,840)	1,744	(5,989)	\$ (7,585)	\$ (4,245)
Less Interest expense	(143)	(141)	(149)	(146)	(142)	(148)	(136)	(141)	(134)	(147)	(141)	(65)	(1,632)	(206)
Adjusted Operating Cash Flow	(2,395)	1,015	293	2,003	1,523	(6,468)	1,087	603	1,559	(3,987)	1,603	(6,054)	\$ (9,217)	\$ (4,451)
Add cash bonus expense	1,063	1,001	1,000	1,100	1,032	1,025	1,000	1,008	1,304	1,300	1,000	1,000	12,832	2,000
Less cash bonuses paid	(63)	(45)	-	(100)	(32)	(6,215)	(14)	(8)	(4)	-	-	(7,049)	(13,528)	(7,049)
Non-cash bonus add-back	1,000	956	1,000	1,000	1,000	(5,190)	986	1,000	1,300	1,300	1,000	(6,049)	(696)	(5,049)
Add deferred compensation MTM	222	243	157	214	426	50	297	286	755	291	159	101	3,201	260
Less cash deferred awards paid	(2,989)	-	-	-	-	-	-	-	-	-	-	(590)	(3,579)	(590)
Non-cash deferred award add-back	(2,767)	243	157	214	426	50	297	286	755	291	159	(489)	(378)	(330)

HIGHLAND CAPITAL MANAGEMENT, LP

Balance Sheet February 2018 vs. January 2018 (in thousands)

	February 28, 2018	January 31, 2018	Increase/ (Decrease) \$	Increase/ (Decrease) %
Assets				
Cash and cash equivalents	\$ 9,607	\$ 2,161	\$ 7,446	344.6%
Investments, at fair value	266,615	277,888	(11,273)	-4.1%
Equity method investees	59,692	82,690	(22,997)	-27.8%
Management and incentive fee receivable	1,918	4,988	(3,070)	-61.5%
Deferred incentive fees	-	6,944	(6,944)	0.0%
Fixed assets, net	5,557	5,665	(109)	-1.9%
Due from affiliates	181,222	175,605	5,617	3.2%
Other assets	9,408	10,353	(945)	-9.1%
Total assets	\$ 534,020	\$ 566,295	\$ (32,275)	(5.7%)
Liabilities and Partners' Capital				
Accounts payable	\$ 2,036	\$ 2,667	\$ (631)	-23.7%
Due to brokers	35,777	35,842	(64)	-0.2%
Accrued expenses and other liabilities	54,361	59,860	(5,498)	-9.2%
Partners' capital	441,846	467,927	(26,081)	-5.6%
Total liabilities and partners' capital	\$ 534,020	\$ 566,295	\$ (32,275)	(5.7%)

Partners' Capital Walk

Partners' capital at 1/31	\$ 467,927
Net subscriptions/(redemptions)	-
Net income/(loss)	(26,081)
Partners' capital at 2/28	<u>\$ 441,846</u>

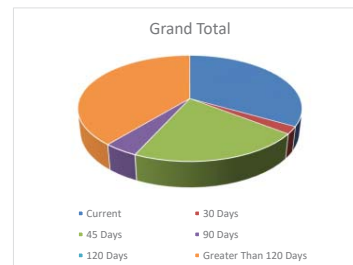
HIGHLAND CAPITAL MANAGEMENT, LP

Income Statement February 2018 YTD vs. January 2017 YTD (in thousands)

	2018 YTD	2017 YTD	Increase/ (Decrease) \$	Increase/ (Decrease) %
Revenue:				
Management fees	\$ 6,103	\$ 6,106	\$ (3)	0.0%
Shared services fees	1,796	1,574	221	14.1%
Other income	811	808	3	0.4%
Total operating revenue	8,710	8,488	222	2.6%
Operating expenses:				
Salaries and overtime	2,331	2,274	57	2.5%
Bonus	2,000	1,995	5	0.2%
Other compensation and benefits	1,193	1,125	68	6.1%
Deferred compensation	260	666	(406)	-61.0%
Professional services	495	740	(245)	-33.1%
Investment research and consulting	33	23	10	45.5%
Marketing and advertising expense	341	460	(119)	-25.8%
Depreciation expense	217	221	(4)	-2.0%
Other operating expenses	922	747	175	23.4%
Total operating expenses	7,793	8,252	(460)	-5.6%
Operating income/(loss)	917	236	681	288.5%
Other income/expense:				
Interest income	1,086	916	170	18.6%
Interest expense	(206)	(244)	39	-15.8%
Other income/expense	145	251	(106)	-42.3%
Total other income/expense	1,024	922	103	11.1%
Realized and unrealized gains from investments:				
Net realized losses on sales of investment transactions	-	-	-	0.0%
Net change in unrealized gains/(losses) of investments	477	10,093	(9,616)	95.3%
Total realized and unrealized gains from investments	477	10,093	(9,616)	-95.3%
Net earnings/(losses) from equity method investees	(21,273)	6,393	(27,666)	432.8%
Net income/(loss)	\$ (18,854)	\$ 17,644	\$ (36,498)	206.9%
Profit margin	-216%	208%		
Other operating expenses detail				
Rent expense	258	196	61	31.2%
Fees and dues	44	55	(11)	-19.6%
Travel and entertainment	137	201	(63)	-31.6%
Insurance expense	128	50	78	155.8%
Bad debt expense	-	-	-	0.0%
Miscellaneous expenses	354	245	110	44.9%
Total other operating expenses	922	747	175	23.4%










Accounts Payable Aging Analysis

% Outstanding	33%	2%	21%	4%	0%	39%
---------------	-----	----	-----	----	----	-----



	\$	292	N/A		-
		200			
		180			
		112			
		10			
Total	\$	794	Total	\$	-
% Total of AP Outstanding		39%	% Total of AP Outstanding		0%

Premium

Funds					Year-Over-Year		Entity	Premium Balance
	2/28/2018	1/31/2018	2/28/2017	\$ Change	% Change			
US CLOs	\$ 851	\$ 1,893	\$ 633	\$ 217	34%		693	
Hedge/Private Equity	611	622	497	114	23%		370	
Separate Accounts	30	30	17	13	77%		89	
Retail	194	194	557	(363)	-65%		9	
International/Portfolio Co	3,413	3,668	3,954	(541)	-14%		(156)	
Research Unallocated	759	311	888	(129)	-15%		(154)	
Unallocated	1,345	1,297	1,350	-	0%		(197)	
Total	\$ 7,202	\$ 8,015	\$ 7,896	\$ (688)	-9%		(392)	
							(258)	
						Total over/(under) funded	\$ 4	

Total over/(under) funded	\$	4
---------------------------	----	---

	<u>1/31/2018</u>	<u>Net Additions</u>	<u>Receipts</u>	<u>2/28/2018</u>
Month to Month Change	\$ 8,015	\$ 330	\$ (1,143)	\$ 7,202

Shared Services Receivables Summary

	<u>2/28/2017</u>	<u>2/28/2018</u>	<u>2017 YTD</u>	<u>2018 YTD</u>	<u>Entity</u>	<u>Balance</u>
Fund Reimbursement Receipts	\$ 1,620	\$ 1,143	\$ 2,225	\$ 2,256	[REDACTED]	3,730
					[REDACTED]	367
HCMLP Invoice Metrics	February 2018	January 2018			[REDACTED]	200
Invoices Processed:	162	120			[REDACTED]	40
\$ Amount Processed:	\$ 8,077	\$ 11,918			[REDACTED]	54
# of Payments	166	152			[REDACTED]	-
\$ Amount of Payments:	\$ 8,558	\$ 13,302			[REDACTED]	-
					Total	\$ 4,391

Highland Capital Management, LP
Schedule of Investments
As of February 2018

[illegible]

Historical Legal Summary through February 28, 2018
Includes only matters allocated to HCMLP
in thousands

HCMLP Legal by Matter

					</

Sorted largest to smallest Matter by 2018 dollars invoiced

HCMLP Legal by Vendor

	2017	2018	2019	2020
Sub-Total Top 25 Vendors	2,865	3,045	7,450	450
Sub-Total Other Vendors	635	469	589	61
Total Vendors	3,500	3,514	8,039	512

Sorted largest to smallest Vendor by cumulative dollars invoiced ('12 - YTD '18)

Employee Expenses through February 28, 2018
Excludes all Dondero Reimbursements
HCMLP & Certain Affiliated Advisors
in thousands

Employee Expenses - Including Reimbursable

<u>Company</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2018</u> <u>Annualized</u>
████████	\$ 838	\$ 707	\$ 818	\$ 93	\$ 557
████████	2,447	1,860	1,041	85	509
████████	742	511	292	23	139
██████	-	57	141	18	108
Total	\$ 4,027	\$ 3,135	\$ 2,293	\$ 219	\$ 1,312

Employee Expenses - Non-Reimbursable Only

<u>Company</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2018</u> <u>Annualized</u>
HCMLP	\$ 387	\$ 174	\$ 396	\$ 61	\$ 363
HCFD	2,219	933	543	39	231
HCMFA	450	380	256	18	110
NPA	-	16	61	9	55
Total	\$ 3,056	\$ 1,503	\$ 1,257	\$ 127	\$ 759

EXHIBIT 76

PROMISSORY NOTE

\$2,500,000

August 1, 2018

FOR VALUE RECEIVED, JAMES DONDERO ("**Maker**") promises to pay to the order of HIGHLAND CAPITAL MANAGEMENT LP ("**Payee**"), in legal and lawful tender of the United States of America, the principal sum of TWO MILLION, FIVE HUNDRED THOUSAND and 00/100 Dollars (\$2,500,000.00), together with interest, on the terms set forth below (the "**Note**"). All sums hereunder are payable to Payee at 300 Crescent Court, Dallas, TX 75201, or such other address as Payee may specify to Maker in writing from time to time.

1. Interest Rate. The unpaid principal balance of this Note from time to time outstanding shall bear interest at a rate equal to the long-term "**applicable federal rate**" (2.95%) in effect on the date hereof for loans of such maturity as determined by Section 1274(d) of the Internal Revenue Code, per annum from the date hereof until maturity, compounded annually on the anniversary of the date of this Note. Interest shall be calculated at a daily rate equal to 1/365th (1/366 in a leap year) of the rate per annum, shall be charged and collected on the actual number of days elapsed, and shall be payable on demand of the Payee.

2. Payment of Principal and Interest. The accrued interest and principal of this Note shall be due and payable on demand of the Payee.

3. Prepayment Allowed; Renegotiation Discretionary. Maker may prepay in whole or in part the unpaid principal or accrued interest of this Note. Any payments on this Note shall be applied first to unpaid accrued interest hereon, and then to unpaid principal hereof.

4. Acceleration Upon Default. Failure to pay this Note or any installment hereunder as it becomes due shall, at the election of the holder hereof, without notice, demand, presentment, notice of intent to accelerate, notice of acceleration, or any other notice of any kind which are hereby waived, mature the principal of this Note and all interest then accrued, if any, and the same shall at once become due and payable and subject to those remedies of the holder hereof. No failure or delay on the part of Payee in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

5. Waiver. Maker hereby waives grace, demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices of any kind hereunder.

6. Attorneys' Fees. If this Note is not paid at maturity (whether by acceleration or otherwise) and is placed in the hands of an attorney for collection, or if it is collected through a bankruptcy court or any other court after maturity, the Maker shall pay, in addition to all other amounts owing hereunder, all actual expenses of collection, all court costs and reasonable attorneys' fees and expenses incurred by the holder hereof.

Exhibit 3

7. Limitation on Agreements. All agreements between Maker and Payee, whether now existing or hereafter arising, are hereby limited so that in no event shall the amount paid, or agreed to be paid to Payee for the use, forbearance, or detention of money or for the payment or performance of any covenant or obligation contained herein or in any other document evidencing, securing or pertaining to this Note, exceed the maximum interest rate allowed by law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between Payee and Maker in conflict herewith.

8. Governing Law. This Note and the rights and obligations of the parties hereunder shall be governed by the laws of the United States of America and by the laws of the State of Texas, and is performable in Dallas County, Texas.

MAKER:



A handwritten signature in blue ink, appearing to read 'J. Dondero', is written over a horizontal line. Below the line, the name 'JAMES DONDERO' is printed in capital letters.

JAMES DONDERO

EXHIBIT 77

PROMISSORY NOTE

\$2,500,000

August 13, 2018

FOR VALUE RECEIVED, JAMES DONDERO ("*Maker*") promises to pay to the order of HIGHLAND CAPITAL MANAGEMENT LP ("*Payee*"), in legal and lawful tender of the United States of America, the principal sum of TWO MILLION, FIVE HUNDRED THOUSAND and 00/100 Dollars (\$2,500,000.00), together with interest, on the terms set forth below (the "*Note*"). All sums hereunder are payable to Payee at 300 Crescent Court, Dallas, TX 75201, or such other address as Payee may specify to Maker in writing from time to time.

1. Interest Rate. The unpaid principal balance of this Note from time to time outstanding shall bear interest at a rate equal to the long-term "*applicable federal rate*" (2.95%) in effect on the date hereof for loans of such maturity as determined by Section 1274(d) of the Internal Revenue Code, per annum from the date hereof until maturity, compounded annually on the anniversary of the date of this Note. Interest shall be calculated at a daily rate equal to 1/365th (1/366 in a leap year) of the rate per annum, shall be charged and collected on the actual number of days elapsed, and shall be payable on demand of the Payee.

2. Payment of Principal and Interest. The accrued interest and principal of this Note shall be due and payable on demand of the Payee.

3. Prepayment Allowed; Renegotiation Discretionary. Maker may prepay in whole or in part the unpaid principal or accrued interest of this Note. Any payments on this Note shall be applied first to unpaid accrued interest hereon, and then to unpaid principal hereof.

4. Acceleration Upon Default. Failure to pay this Note or any installment hereunder as it becomes due shall, at the election of the holder hereof, without notice, demand, presentment, notice of intent to accelerate, notice of acceleration, or any other notice of any kind which are hereby waived, mature the principal of this Note and all interest then accrued, if any; and the same shall at once become due and payable and subject to those remedies of the holder hereof. No failure or delay on the part of Payee in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

5. Waiver. Maker hereby waives grace, demand, presentment for payment, notice of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices of any kind hereunder.

6. Attorneys' Fees. If this Note is not paid at maturity (whether by acceleration or otherwise) and is placed in the hands of an attorney for collection, or if it is collected through a bankruptcy court or any other court after maturity, the Maker shall pay, in addition to all other amounts owing hereunder, all actual expenses of collection, all court costs and reasonable attorneys' fees and expenses incurred by the holder hereof.


Exhibit 4

Appx. 01358

7. Limitation on Agreements. All agreements between Maker and Payee, whether now existing or hereafter arising, are hereby limited so that in no event shall the amount paid, or agreed to be paid to Payee for the use, forbearance, or detention of money or for the payment or performance of any covenant or obligation contained herein or in any other document evidencing, securing or pertaining to this Note, exceed the maximum interest rate allowed by law. The terms and provisions of this paragraph shall control and supersede every other provision of all agreements between Payee and Maker in conflict herewith.

8. Governing Law. This Note and the rights and obligations of the parties hereunder shall be governed by the laws of the United States of America and by the laws of the State of Texas, and is performable in Dallas County, Texas.

MAKER:



JAMES DONDERO

EXHIBIT 78

HIGHLAND CAPITAL
MANAGEMENT, LP

OPERATING RESULTS

August 2018

Exhibit 5

Highland Capital Management, L.P.
Significant Items Impacting HCMLP's Balance Sheet
August 2018

Operating Activities

[REDACTED]
[REDACTED]
[REDACTED]

Investments

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Other

- (\$5.0M) partner loan

Highland Capital Management, L.P.
Financial/Operational Highlights
August 2018 Close Package
(in millions)

	<u>5/31/2018</u>	<u>6/30/2018</u>	<u>7/31/2018</u>	<u>8/31/2018</u>
Cash	\$ 6.9	\$ 7.8	\$ 7.7	\$ 3.4
Operating Revenue	\$ 5.0	\$ 4.4	\$ 4.8	\$ 3.2
Operating Expenses ⁽¹⁾	(4.8)	(4.9)	(4.4)	(3.9)
Operating Income	\$ 0.2	\$ (0.5)	\$ 0.4	\$ (0.7)
Add back: Non-Recurring Items ⁽³⁾	\$ 0.9	\$ 0.9	\$ 0.7	\$ -
Adjusted Operating Income	\$ 1.1	\$ 0.4	\$ 1.1	\$ (0.7)
Net Income/(Loss)	\$ (1.3)	\$ (2.2)	\$ 12.1	\$ 11.9

	<u>MTD</u>	<u>YTD</u>	<u>LTM</u>
Operating Cash Flow ⁽²⁾	\$ (5.9)	\$ 3.5	\$ (8.2)
Interest Expense	(0.2)	(1.1)	(1.6)
Adjusted Operating Cash Flow	\$ (6.1)	\$ 2.4	\$ (9.8)

<u>Assets Under Management (billions)</u>	<u>5/31/2018</u>	<u>6/30/2018</u>	<u>7/31/2018</u>
CLO 1.0	\$ 1.4	\$ 1.4	\$ 1.4
Sep. Accounts	2.5	2.5	2.5
Hedge/PE	0.6	0.2	0.2
Sub-total	\$ 4.5	\$ 4.1	\$ 4.1

<u>Headcount - including affiliates</u>	<u>5/31/2018</u>	<u>6/30/2018</u>	<u>7/31/2018</u>	<u>8/31/2018</u>
Front Office	38	38	38	38
Institutional Marketing and Client Service	4	4	3	2
Legal	15	15	15	15
Admin	15	15	15	15
Retail Operations (HCMLP)	6	6	6	6
Back Office	34	35	35	35
HCFD/NSI	16	17	17	17
HCMF Strategy/Marketing	8	8	8	8
Total	136	138	137	136

Notes:

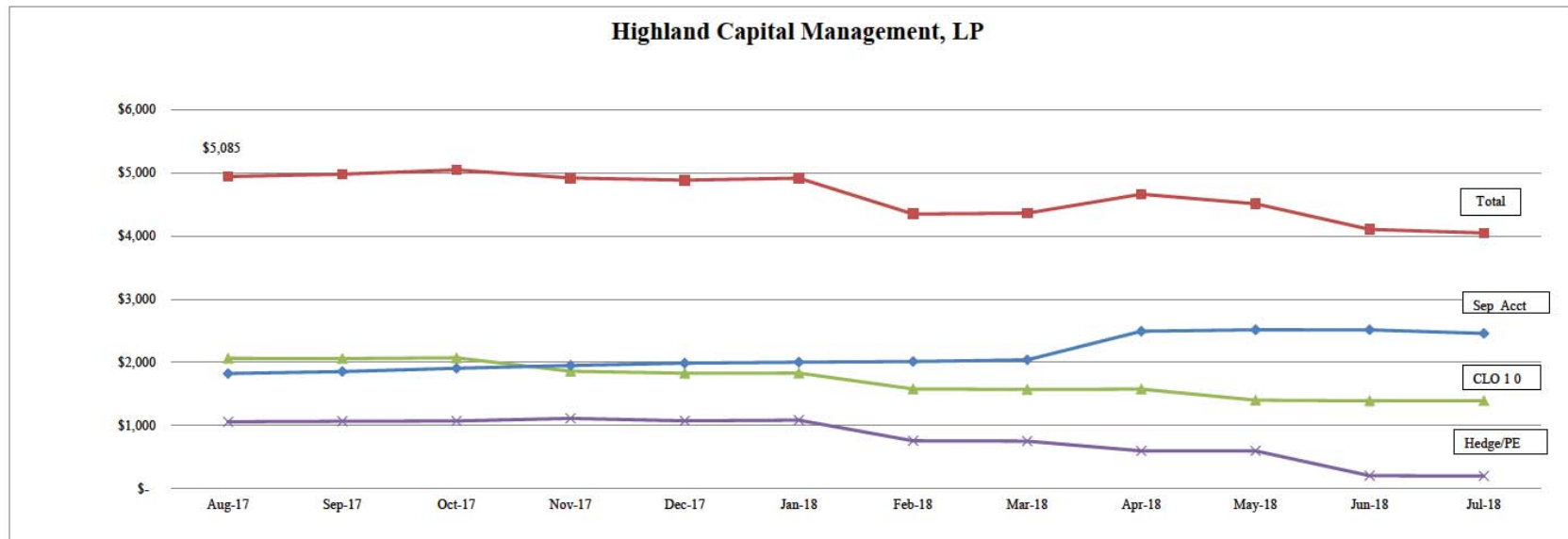
(1) Excludes deferred compensation MTM

(2) Operating Cash Flow = Operating Income + Dep. + Deferred Comp + Non-Cash Bonus Expense

(3) Receivables reserve

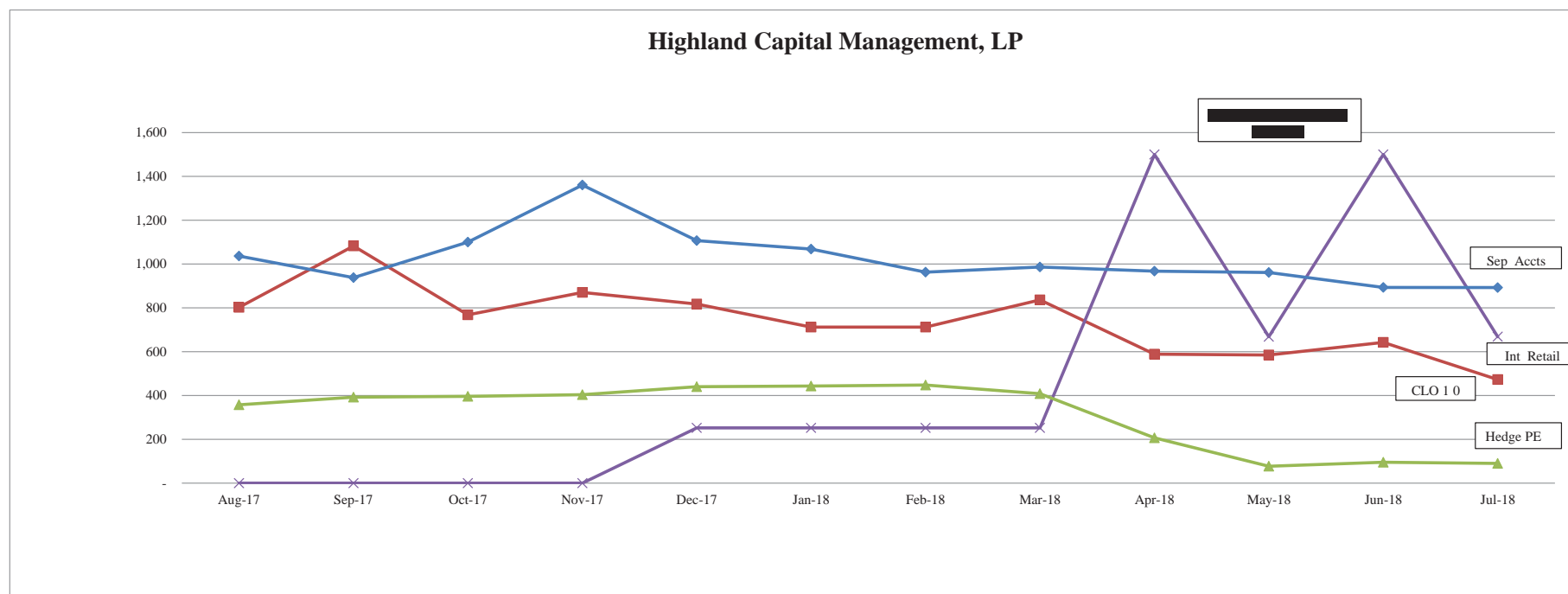
HCMLP Rolling Fee Earning AUM Schedule
(in millions)

	8/31/2017	9/30/2017	10/31/2017	11/30/2017	12/31/2017	1/31/2018	2/28/2018	3/31/2018	4/30/2018	5/31/2018	6/30/2018	7/31/2018
CLO 1 0	\$ 2,063	\$ 2,060	\$ 2,072	\$ 1,859	\$ 1,827	\$ 1,831	\$ 1,579	\$ 1,572	\$ 1,575	\$ 1,402	\$ 1,390	\$ 1,393
Sep Accounts	1,823	1,855	1,905	1,951	1,987	2,003	2,013	2,039	2,493	2,514	2,515	2,458
Hedge/PE	1,058	1,067	1,072	1,112	1,073	1,084	757	751	598	596	204	199
Sub-total	\$ 4,945	\$ 4,981	\$ 5,049	\$ 4,922	\$ 4,887	\$ 4,917	\$ 4,349	\$ 4,362	\$ 4,665	\$ 4,512	\$ 4,108	\$ 4,050
CLO 2 0	-	-	-	-	-	-	-	-	2,250	2,174	2,164	2,161
Grand Total	\$ 4,945	\$ 4,981	\$ 5,049	\$ 4,922	\$ 4,887	\$ 4,917	\$ 4,349	\$ 4,362	\$ 6,915	\$ 6,686	\$ 6,272	\$ 6,211



HCMLP Monthly Management Fees
(in thousands)

	8/31/2017	9/30/2017	10/31/2017	11/30/2017	12/31/2017	1/31/2018	2/28/2018	3/31/2018	4/30/2018	5/31/2018	6/30/2018	7/31/2018
Intercompany Retail Advisors	\$ -	\$ -	\$ -	\$ -	\$ 252	\$ 252	\$ 252	\$ 252	\$ 1,500	\$ 668	\$ 1,500	\$ 668
Sep Accounts	1,036	938	1,100	1,361	1,107	1,068	963	987	967	961	894	893
CLO 1 0	802	1,082	768	871	818	713	713	837	589	585	643	473
Hedge/PE Funds	358	393	396	404	440	443	448	408	206	77	95	90
Other	-	-	-	9	-	-	-	87	-	43	22	65
Sub-total	\$ 2,196	\$ 2,413	\$ 2,265	\$ 2,644	\$ 2,617	\$ 2,476	\$ 2,375	\$ 2,571	\$ 3,262	\$ 2,334	\$ 3,154	\$ 2,189
CLO 2 0*	529	447	620	561	491	497	497	500	497	497	407	-
Grand Total	2,725	2,860	2,885	3,205	3,108	2,974	2,873	3,071	3,760	2,832	3,561	2,189



*CLO 2 0 fees are reserved against

HIGHLAND CAPITAL MANAGEMENT, LP

Statement of Income Twelve Months Ended August 2018 (in thousands)

	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	LTM	YTD
Revenue:														
Management fees	\$ 2,725	\$ 2,860	\$ 2,885	\$ 3,205	\$ 3,108	\$ 2,974	\$ 2,873	\$ 3,071	\$ 3,760	\$ 2,832	\$ 3,561	\$ 2,189	\$ 36,041	\$ 24,366
Shared services fees	757	732	871	826	915	866	866	890	1,038	937	827	657	10,182	6,995
Incentive fees	-	-	-	10,043	-	-	-	-	-	18	-	-	10,061	18
Other income	562	234	586	912	215	596	339	482	304	653	458	348	5,689	3,395
Total operating revenue	4,043	3,827	4,342	14,987	4,237	4,436	4,079	4,442	5,102	4,440	4,846	3,193	61,973	34,774
Operating expenses:														
Compensation and benefits	2,368	2,308	2,795	3,651	2,755	2,769	2,711	3,283	2,277	2,529	2,515	2,676	32,636	21,514
Deferred compensation	297	286	755	291	159	101	9	479	87	179	700	204	3,547	1,918
Professional services	472	1,031	649	18,821	(15,051)	314	606	344	814	608	408	342	9,358	1,819
Investment research and consulting	160	22	8	242	13	20	226	26	20	170	43	18	966	535
Depreciation	113	112	112	108	109	108	108	108	108	108	108	108	1,310	865
Bad debt	-	-	-	2,279	-	-	5	3,497	866	870	713	-	8,229	5,951
Other operating expenses	805	723	497	1,180	580	683	951	871	684	665	606	803	9,049	5,844
Total operating expenses	4,216	4,482	4,816	26,571	(11,435)	3,995	4,616	8,608	4,857	5,130	5,092	4,151	65,097	38,446
Operating income	(172)	(655)	(474)	(11,585)	15,672	441	(537)	(4,166)	245	(690)	(246)	(957)	(3,124)	(3,672)
Other income/expense:														
Interest and investment income, net	532	574	937	839	612	473	524	886	554	462	978	529	7,899	5,018
Interest expense	(136)	(141)	(134)	(145)	(143)	(65)	(131)	(140)	(151)	(141)	(152)	(156)	(1,634)	(1,078)
Other income/expense	63	77	64	19,134	(13,353)	64	96	124	96	584	127	108	7,184	1,280
Total other income/expense	459	510	867	19,828	(12,883)	472	489	870	500	904	953	481	13,449	5,219
Realized and unrealized gain/(loss) from investments:														
Net realized gain/(loss) on sale of investment transactions	-	22	-	(1,196)	-	-	3,961	-	-	351	89	48	3,276	4,450
Net change in unrealized gain/(loss) of investments	9,180	(1,004)	6,375	(2,125)	10,678	(10,201)	(16,002)	3,030	(1,476)	(1,170)	6,011	7,563	10,859	(1,567)
Total realized and unrealized gain/(loss) from investments	9,180	(982)	6,375	(3,320)	10,678	(10,201)	(12,041)	3,030	(1,476)	(819)	6,100	7,611	14,135	2,882
Earnings and losses from equity method investees														
	333	12	200	329	926	(210)	(821)	726	(617)	(91)	223	122	1,130	257
	(1,136)	(203)	4,333	529	(1,674)	(5,137)	(726)	(2,108)	57	(554)	1,482	1,362	(3,776)	(7,299)
	(2,300)	(419)	8,353	1,019	(3,731)	(11,446)	(199)	(5,483)	138	(1,348)	3,601	3,311	(8,505)	(15,157)
	0	15	-	22	-	-	-	-	-	-	-	-	38	-
	(14)	(18)	11	(18)	-	-	(126)	-	-	88	-	-	(77)	(38)
	-	-	768	(89)	-	-	-	-	(37)	-	-	-	641	(37)
	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	75	-	-	-	-	-	-	-	-	75	-
Total earnings/(loss) from equity method investees	(3,118)	(613)	13,664	1,866	(4,479)	(16,794)	(1,872)	(6,865)	(459)	(1,905)	5,305	4,795	(10,474)	(22,274)
Net income	6,348	(1,739)	20,432	6,790	8,988	(26,081)	(13,962)	(7,130)	(1,190)	(2,510)	12,112	11,929	\$ 13,986	\$ (17,844)
Profit margin	157%	-45%	471%	45%	212%	-588%	-342%	-161%	-23%	-57%	250%	374%	23%	-51%
Operating Cash Flow Calculation:														
Operating income	(172)	(655)	(474)	(11,585)	15,672	441	(537)	(4,166)	245	(690)	(246)	(957)	(3,124)	9,762
Add Depreciation expense	113	112	112	108	109	108	108	108	108	108	108	108	1,310	865
Adjustment Deferred compensation	297	286	755	291	159	101	(581)	(2,381)	87	125	700	204	43	(1,586)
Bonus awards	(5,215)	994	1,296	1,984	1,000	1,000	(6,001)	964	889	900	945	(5,210)	(6,455)	(5,514)
Operating Cash Flow	(4,977)	737	1,690	(9,201)	16,939	1,650	(7,012)	(5,475)	1,329	443	1,507	(5,855)	\$ (8,225)	\$ 3,527
Less Interest expense	(136)	(141)	(134)	(145)	(143)	(65)	(131)	(140)	(151)	(141)	(152)	(156)	(1,634)	(1,078)
Adjusted Operating Cash Flow	(5,114)	596	1,556	(9,346)	16,797	1,585	(7,143)	(5,614)	1,178	302	1,355	(6,011)	\$ (9,859)	\$ 2,449
Add cash bonus expense	1,000	1,008	1,304	1,988	1,000	1,000	1,048	1,011	900	900	945	900	13,003	7,703
Less cash bonuses paid	(6,215)	(14)	(8)	(4)	-	-	(7,049)	(48)	(11)	-	-	(6,110)	(19,458)	(13,217)
Non-cash bonus add-back	(5,215)	994	1,296	1,984	1,000	1,000	(6,001)	964	889	900	945	(5,210)	(6,455)	(5,514)
Add deferred compensation MTM	297	286	755	291	159	101	9	479	87	179	700	204	3,547	1,918
Less cash deferred awards paid	-	-	-	-	-	-	(590)	(2,860)	-	(54)	-	-	(3,504)	(3,504)
Non-cash deferred award add-back	297	286	755	291	159	101	(581)	(2,381)	87	125	700	204	43	(1,586)

HIGHLAND CAPITAL MANAGEMENT, LP

Balance Sheet August 2018 vs. July 2018 (in thousands)

	August 31, 2018	July 31, 2018	Increase/ (Decrease) \$	Increase/ (Decrease) %
Assets				
Cash and cash equivalents	\$ 3,396	\$ 7,741	\$ (4,344)	-56.1%
Investments, at fair value	265,622	257,648	7,974	3.1%
Equity method investees	60,752	60,958	(205)	-0.3%
Management and incentive fee receivable	1,626	3,577	(1,951)	-54.5%
Fixed assets, net	4,927	5,035	(108)	-2.2%
Due from affiliates	179,404	173,894	5,510	3.2%
Other assets	10,921	11,310	(389)	-3.4%
Total assets	\$ 526,648	\$ 520,162	\$ 6,487	1.25%
Liabilities and Partners' Capital				
Accounts payable	\$ 1,355	\$ 2,688	\$ (1,333)	-49.6%
Due to brokers	31,464	31,724	(260)	-0.8%
Accrued expenses and other liabilities	61,580	65,430	(3,850)	-5.9%
Partners' capital	432,249	420,320	11,929	2.8%
Total liabilities and partners' capital	\$ 526,648	\$ 520,162	\$ 6,487	1.25%

Partners' Capital Walk

Partners' capital at 7/31	\$ 420,320
Net subscriptions/(redemptions)	-
Net income/(loss)	11,929
Partners' capital at 8/31	<u>\$ 432,249</u>

HIGHLAND CAPITAL MANAGEMENT, LP

Income Statement August 2018 YTD vs. August 2017 YTD (in thousands)

	2018 YTD	2017 YTD	Increase/ (Decrease) \$	Increase/ (Decrease) %
Revenue:				
Management fees	\$ 24,366	\$ 25,288	\$ (922)	-3.6%
Shared services fees	6,995	6,258	737	11.8%
Incentive fees	18	-	18	N/A
Other income	3,395	3,381	14	0.4%
Total operating revenue	34,774	34,927	(153)	-0.4%
Operating expenses:				
Salaries and overtime	9,189	9,427	(238)	-2.5%
Bonus	7,703	8,216	(513)	-6.2%
Other compensation and benefits	4,623	4,547	76	1.7%
Deferred compensation	1,918	1,372	546	39.8%
Professional services	1,819	5,502	(3,683)	-66.9%
Investment research and consulting	535	669	(134)	-20.1%
Marketing and advertising expense	1,478	1,774	(296)	-16.7%
Depreciation expense	865	887	(22)	-2.5%
Bad debt	5,951	-	5,951	100.0%
Other operating expenses	4,366	4,359	7	0.2%
Total operating expenses	38,446	36,753	1,693	4.6%
Operating income/(loss)	(3,672)	(1,826)	(1,846)	101.1%
Other income/expense:				
Interest income	5,018	4,167	851	20.4%
Interest expense	(1,078)	(1,113)	35	-3.1%
Other income/expense	1,280	5,539	(4,259)	-76.9%
Total other income/expense	5,219	8,593	(3,374)	-39.3%
Realized and unrealized gains from investments:				
Net realized gains on sales of investment transactions	4,450	7,666	(3,216)	-42.0%
Net change in unrealized gains/(losses) of investments	(1,567)	12,293	(13,860)	112.8%
Total realized and unrealized gains from investments	2,882	19,959	(17,077)	-85.6%
Net earnings/(losses) from equity method investees	(22,274)	(6,081)	(16,193)	-266.3%
Net income/(loss)	\$ (17,844)	\$ 20,645	\$ (38,489)	186.4%
Profit margin	-51%	59%		
Other operating expenses detail				
Rent expense	1,041	979	61	6.3%
Fees and dues	166	211	(45)	-21.2%
Travel and entertainment	840	1,036	(196)	-18.9%
Insurance expense	496	431	64	15.0%
Miscellaneous expenses	1,823	1,701	122	7.1%
Total other operating expenses	4,366	4,359	7	0.2%

Highland Capital Management, LP
Schedule of Investments
As of August 2018

[illegible]

EXHIBIT 79

HIGHLAND CAPITAL MANAGEMENT, L.P.

December 3, 2020

James Dondero
 c/o Highland Capital Management, L.P.
 300 Crescent Court, Suite 700
 Dallas, Texas 75201

Re: Demand on Promissory Notes:

Dear Mr. Dondero,

You entered into the following promissory notes (collectively, the “Notes”) in favor of Highland Capital Management, L.P. (“Payee”):

Date Issued	Original Principal Amount	Outstanding Principal Amount (12/11/20)	Accrued But Unpaid Interest (12/11/20)	Total Amount Outstanding (12/11/20)
2/2/18	\$3,825,000	\$3,687,269.71	\$21,003.70	\$3,708,273.41
8/1/18	\$2,500,000	\$2,619,929.42	\$27,950.70	\$2,647,880.12
8/13/18	\$2,500,000	\$2,622,425.61	\$25,433.94	\$2,647,859.55
TOTALS	\$16,725,000	\$8,929,624.74	\$74,388.33	\$9,004,013.07

As set forth in Section 2 of each of the Notes, accrued interest and principal is due and payable upon the demand of Payee. By this letter, Payee is demanding payment of the accrued interest and principal due and payable on the Notes in the aggregate amount of \$9,004,013.07, which represents all accrued and unpaid interest and principal through and including December 11, 2020.

Payment is due on December 11, 2020, and failure to make payment in full on such date will constitute an event of default under the Notes.

Payments on the Notes must be made in immediately available funds. Payee’s wire information is attached hereto as **Appendix A**.

Nothing contained herein constitutes a waiver of any rights or remedies of Payee under the Notes or otherwise and all such rights and remedies, whether at law, equity, contract, or otherwise, are expressly reserved. Interest, including default interest if applicable, on the Notes will continue to accrue until the Notes are paid in full. Any such interest will remain your obligation.

Sincerely,

/s/ James P. Seery, Jr.

James P. Seery, Jr.
 Highland Capital Management, L.P.
 Chief Executive Officer/Chief Restructuring Officer

cc: Fred Caruso
James Romey
Jeffrey Pomerantz
Ira Kharasch
Gregory Demo
D. Michael Lynn

Appendix A

ABA #: 322070381
Bank Name: East West Bank
Account Name: Highland Capital Management, LP
Account #: 5500014686

EXHIBIT 80

D. Michael Lynn – State Bar ID 12736500
John Y. Bonds, III – State Bar ID 02589100
John T. Wilson, IV – State Bar ID 24033344
Bryan C. Assink – State Bar ID 24089009
BONDS ELLIS EPPICH SCHAFFER JONES LLP
420 Throckmorton Street, Suite 1000
Fort Worth, Texas 76102
(817) 405-6900 – Telephone
(817) 405-6902 – Facsimile

ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Case No. 19-34054-SGJ-11
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	Chapter 11
	§	
Debtor.	§	
<hr style="border: 1px solid black;"/>		
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff.	§	
	§	
v.	§	
	§	
JAMES D. DONDERO,	§	Adversary No.: 21-03003
	§	
Defendant.	§	

DEFENDANT JAMES DONDERO’S ORIGINAL ANSWER

Defendant James Dondero (“Dondero” or “Defendant”), the defendant in the above-styled and numbered adversary proceeding (the “Adversary Proceeding”) filed by Highland Capital Management, L.P. (the “Plaintiff”), hereby files this Original Answer (the “Answer”) responding to the *Complaint for (I) Breach of Contract and (II) Turnover of Property of the Debtor’s Estate* [Adv. Dkt. 1] (the “Complaint”). Where an allegation in the Complaint is not expressly admitted in this Answer, it is denied.

Exhibit 7



PRELIMINARY STATEMENT

1. The first sentence of paragraph 1 of the Complaint sets forth the Plaintiff's objective in bringing the Complaint and does not require a response. To the extent it contains factual allegations, they are denied. The second sentence contains a legal conclusion that does not require a response. To the extent it contains factual allegations, they are denied.

2. Paragraph 2 contains a summary of the relief the Plaintiff seeks and does not require a response. To the extent it contains factual allegations, they are denied.

JURISDICTION AND VENUE

3. The Defendant admits that this Adversary Proceeding relates to the Plaintiff's bankruptcy case but denies any implication that this fact confers Constitutional authority on the Bankruptcy Court to adjudicate this dispute. Any allegations in paragraph 3 not expressly admitted are denied.

4. The Defendant admits that the Court has statutory (but not Constitutional) jurisdiction to hear this Adversary Proceeding. Any allegations in paragraph 4 not expressly admitted are denied.

5. The Defendant denies that a breach of contract claim is core. The Defendant denies that a § 542(b) turnover proceeding is the appropriate mechanism to collect a contested debt. The Defendant admits that a § 542(b) turnover proceeding is statutorily core but denies that it is Constitutionally core under *Stern v. Marshall*. The Defendant does not consent to the Bankruptcy Court entering final orders or judgment in this Adversary Proceeding. Any allegations in paragraph 5 not expressly admitted are denied.

6. The Defendant admits paragraph 6 of the Complaint.

THE PARTIES

7. The Defendant admits paragraph 7 of the Complaint.
8. The Defendant admits paragraph 8 of the Complaint.

CASE BACKGROUND

9. The Defendant admits paragraph 9 of the Complaint.
10. The Defendant admits paragraph 10 of the Complaint.
11. The Defendant admits paragraph 11 of the Complaint.
12. The Defendant admits paragraph 12 of the Complaint.

STATEMENT OF FACTS

13. The Defendant admits that he has executed promissory notes under which the Debtor is the payee. Any allegations in paragraph 13 not expressly admitted are denied.

14. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 14 of the Complaint. Defendant admits that the attached document appears to be a copy of the referenced note.

15. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 15 of the Complaint. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in the second sentence of paragraph 15 of the Complaint and therefore denies same.

16. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 16 of the Complaint. Defendant admits that the attached document appears to be a copy of the referenced note.

17. The Defendant admits that section 2 of each note attached to the Complaint contains the provision quoted in paragraph 17 of the Complaint.

18. The Defendant denies the allegations in paragraph 18 of the Complaint. It appears that the provisions of each Note differ. Accordingly, the allegations made in this paragraph are denied.

19. The Defendant denies the allegations in paragraph 19 of the Complaint. It appears that the provisions of each Note differ. Accordingly, the allegations made in this paragraph are denied.

20. In response to paragraph 20 of the Complaint, the Defendant admits that Exhibit 4 to the Complaint (the “Demand Letter”) is a true and correct copy of what it purports to be and that the document speaks for itself. To the extent paragraph 20 of the Complaint asserts a legal conclusion, no response is required, and it is denied. To the extent not expressly admitted, paragraph 20 of the Complaint is denied.

21. To the extent paragraph 21 of the Complaint asserts a legal conclusion, no response is necessary, and it is denied. The Defendant otherwise admits paragraph 21 of the Complaint.

22. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 22 of the Complaint and therefore denies same.

23. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23 of the Complaint and therefore denies same.

24. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 24 of the Complaint and therefore denies same.

25. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 25 of the Complaint and therefore denies same.

26. The Defendant denies the allegations in paragraph 26 of the Complaint.

FIRST CLAIM FOR RELIEF
(For Breach of Contract)

27. Paragraph 27 of the Complaint is a sentence of incorporation that does not require a response. All prior denials are incorporated herein by reference.

28. Paragraph 28 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 28 of the Complaint and therefore denies same.

29. Paragraph 29 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29 of the Complaint and therefore denies same.

30. Paragraph 30 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 30 of the Complaint and therefore denies same.

31. The Defendant denies paragraph 31 of the Complaint.

SECOND CLAIM FOR RELIEF
(Turnover by Mr. Dondero Pursuant to 11 U.S.C. § 542(b))

32. Paragraph 32 of the Complaint is a sentence of incorporation that does not require a response. All prior denials are incorporated herein by reference.

33. Paragraph 33 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 33 of the Complaint and therefore denies same.

34. Paragraph 34 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 34 of the Complaint and therefore denies the same.

35. The Defendant denies paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint states a legal conclusion that does not require a response. The Defendant admits that the Plaintiff transmitted the Demand Letter, and that document speaks for itself. To the extent paragraph 36 alleges other facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 36 of the Complaint and therefore denies the same.

37. The Defendant denies paragraph 37 of the Complaint.

38. Paragraph 38 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 38 of the Complaint and therefore denies the same.

39. The Defendant denies that the Plaintiff is entitled to the relief requested in the prayer, including as to parts (i), (ii), and (iii).

AFFIRMATIVE DEFENSES

40. Defendant asserts that Plaintiff's claims should be barred because it was previously agreed by Plaintiff that Plaintiff would not collect on the Notes.

41. Defendant further asserts that Plaintiff's claims are barred, in whole or in part, due to waiver.

42. Defendant further asserts that Plaintiff's claims are barred, in whole or in part, due

to estoppel.

43. Defendant further asserts that Plaintiff's claims may be barred, in whole or in part, due to failure of consideration.

JURY DEMAND

44. The Defendant demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Rule 9015 of the Federal Rules of Bankruptcy Procedure.

45. The Defendant does not consent to the Bankruptcy Court conducting a jury trial and therefore demands a jury trial in the District Court.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully request that, following a trial on the merits, the Court enter a judgment that the Plaintiff take nothing on the Complaint and provide the Defendant such other relief to which he is entitled.

Dated: March 16, 2021

Respectfully submitted,

/s/ Bryan C. Assink

D. Michael Lynn – State Bar ID 12736500
John Y. Bonds, III – State Bar ID 02589100
John T. Wilson, IV – State Bar ID 24033344
Bryan C. Assink – State Bar ID 24089009
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michael.lynn@bondsellis.com
john@bondsellis.com
john.wilson@bondsellis.com
bryan.assink@bondsellis.com

**ATTORNEYS FOR DEFENDANT
JAMES DONDERO**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on March 16, 2021, a true and correct copy of this document was served via the Court's CM/ECF system on counsel for the Plaintiff.

/s/ Bryan C. Assink

Bryan C. Assink

EXHIBIT 81

John Y. Bonds, III
 State Bar I.D. No. 02589100
 Clay Taylor
 State Bar I.D. No. 24033261
 Bryan C. Assink
 State Bar I.D. No. 24089009
 BONDS ELLIS EPPICH SCHAFFER JONES LLP
 420 Throckmorton Street, Suite 1000
 Fort Worth, Texas 76102
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Deborah Deitsch-Perez
 State Bar No. 24036072
 Michael P. Aigen
 State Bar No. 24012196
 STINSON LLP
 3102 Oak Lawn Avenue, Suite 777
 Dallas, Texas 75219
 (214) 560-2201 telephone
 (214) 560-2203 facsimile

ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION**

<p>In re:</p> <p>HIGHLAND CAPITAL MANAGEMENT, L.P.</p> <p style="padding-left: 40px;">Debtor.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Case No. 19-34054</p> <p>Chapter 11</p>
--	---	--

<p>HIGHLAND CAPITAL MANAGEMENT, L.P.,</p> <p style="padding-left: 40px;">Plaintiff.</p> <p>v.</p> <p>JAMES D. DONDERO,</p> <p style="padding-left: 40px;">Defendant.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Adversary No. 21-03003-sgj</p>
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**DEFENDANT JAMES DONDERO’S OBJECTIONS AND RESPONSES
 TO HIGHLAND CAPITAL MANAGEMENT, L.P.’S
FIRST REQUEST FOR ADMISSIONS**

TO: Highland Capital Management, L.P., by and through its attorneys of record, Zachery Z. Annable, Hayward PLLC, 10501 N. Central Expy., Ste. 106, Dallas, Texas 75231.

Defendant James Dondero (“Defendant” or “Dondero”) serves his Objections and Responses to Debtor Highland Capital Management, L.P.’s (“Debtor” or “Highland”) First Request for Admissions (“Requests”), as follows:

Exhibit 8

Dated: April 28, 2021

Respectfully submitted,

/s/ Bryan C. Assink

John Y. Bonds, III
State Bar I.D. No. 02589100
Clay Taylor
State Bar I.D. No. 24033261
Bryan C. Assink
State Bar I.D. No. 24089009
BONDS ELLIS EPPICH SCHAFFER JONES LLP
420 Throckmorton Street, Suite 1000
Fort Worth, Texas 76102
(817) 405-6900 telephone
(817) 405-6902 facsimile
Email: john@bondsellis.com
Email: clay.taylor@bondsellis.com
Email: bryan.assink@bondsellis.com

-and-

Deborah Deitsch-Perez
State Bar No. 24036072
Michael P. Aigen
State Bar No. 24012196
STINSON LLP
3102 Oak Lawn Avenue, Suite 777
Dallas, Texas 75219
(214) 560-2201 telephone
(214) 560-2203 facsimile
Email: deborah.deitschperez@stinson.com
Email: michael.aigen@stinson.com

ATTORNEYS FOR DEFENDANT JAMES DONDERO

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on April 28, 2021, a true and correct copy of the foregoing document was served via email on counsel for the Debtor.

/s/ Bryan C. Assink

Bryan C. Assink

OBJECTIONS AND RESPONSES

REQUEST FOR ADMISSION NO. 1: Admit that attached as Exhibit A is a true and correct copy of a Promissory Note (a) executed by James Dondero, as maker, in favor of the Debtor, as payee, (b) dated February 2, 2018, (c) in the original face amount of \$3,825,000 (the “February 2 Note”).

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 2: Admit that on or about February 2, 2018, the Debtor paid \$3,825,000 to James Dondero (or for his benefit) in exchange for the February 2 Note (the “February 2 Consideration”).

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 3: Admit that on or about February 2, 2018, the Debtor transferred \$3,825,000 to an account for James Dondero’s benefit.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 4: Admit that neither James Dondero nor any entity he owns and/or controls paid any federal or state income taxes on account of the February 2 Consideration.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 5: Admit that attached as Exhibit B is a true and correct copy of a Promissory Note (a) executed by James Dondero, as maker, in favor of the Debtor, as payee, (b) dated August 1, 2018, (c) in the original face amount of \$2,500,000 (the “August 1 Note”).

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 6: Admit that on or about August 1, 2018, the Debtor paid \$2,500,000 to James Dondero (or for his benefit) in exchange for the August 1 Note (the “August 1 Consideration”).

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 7: Admit that on or about August 1, 2018, the Debtor transferred \$2,500,000 to an account for James Dondero's benefit.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 8: Admit that neither James Dondero nor any entity he owns and/or controls paid any federal state income taxes on account of the August 1 Consideration.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 9: Admit that attached as Exhibit C is a true and correct copy of a Promissory Note (a) executed by James Dondero, as maker, in favor of the Debtor, as payee, (b) dated August 13, 2018, (c) in the original face amount of \$2,500,000 (the "August 13 Note").

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 10: Admit that on or about August 13, 2018, the Debtor paid \$2,500,000 to James Dondero (or for his benefit) in exchange for the August 13 Note (the "August 13 Consideration").

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 11: Admit that on or about August 13, 2018, the Debtor transferred \$2,500,000 to an account for James Dondero's benefit.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 12: Admit that neither James Dondero nor any entity he owns and/or controls paid any federal or state income taxes on account of the August 13 Consideration.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 13: Admit that attached as Exhibit D is the Debtor's December 3, 2020 demand letter (the "Demand Letter") to James Dondero demanding payment of the accrued interest and principal due and payable on the Promissory Notes in the aggregate amount of \$9,004,013.07 (the "Outstanding Amount").

RESPONSE:

Admit only that the letter attached as Exhibit D is a letter sent from the Debtor to Dondero making demand on the notes. The remainder of the request is denied.

REQUEST FOR ADMISSION NO. 14: Admit that, as of January 22, 2021, James Dondero has not paid the Debtor the Outstanding Amount.

RESPONSE:

Admit only that Dondero has not paid the Debtor the amount the Debtor asserts is due on the notes in the amount of \$9,004,013.07. The remainder of the request is denied.

EXHIBIT 82

John Y. Bonds, III
 State Bar I.D. No. 02589100
 Clay Taylor
 State Bar I.D. No. 24033261
 Bryan C. Assink
 State Bar I.D. No. 24089009
 BONDS ELLIS EPPICH SCHAFFER JONES LLP
 420 Throckmorton Street, Suite 1000
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Deborah Deitsch-Perez
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 Michael P. Aigen
 State Bar No. 24012196
 STINSON LLP
 3102 Oak Lawn Avenue, Suite 777
 Dallas, Texas 75219
 (214) 560-2201 telephone
 (214) 560-2203 facsimile

ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION**

<p>In re:</p> <p>HIGHLAND CAPITAL MANAGEMENT, L.P.</p> <p style="padding-left: 40px;">Debtor.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Case No. 19-34054</p> <p>Chapter 11</p>
<p>HIGHLAND CAPITAL MANAGEMENT, L.P.,</p> <p style="padding-left: 40px;">Plaintiff.</p> <p>v.</p> <p>JAMES D. DONDERO,</p> <p style="padding-left: 40px;">Defendant.</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>Adversary No. 21-03003-sgj</p>

**DEFENDANT JAMES DONDERO'S OBJECTIONS AND ANSWERS
 TO HIGHLAND CAPITAL MANAGEMENT, L.P.'S
FIRST SET OF INTERROGATORIES**

TO: Highland Capital Management, L.P., by and through its attorneys of record, Zachery Z. Annable, Hayward PLLC, 10501 N. Central Expy., Ste. 106, Dallas, Texas 75231.

Defendant James Dondero ("Defendant" or "Dondero") serves his Objections and Answers to Debtor Highland Capital Management, L.P.'s ("Debtor" or "Highland") First Set of Interrogatories ("Requests"), as follows:

Exhibit 9

Dated: 4/26/2021

Respectfully submitted,

/s/ Bryan C. Assink

John Y. Bonds, III

State Bar I.D. No. 02589100

Clay Taylor

State Bar I.D. No. 24033261

Bryan C. Assink

State Bar I.D. No. 24089009

BONDS ELLIS EPPICH SCHAFFER JONES LLP

420 Throckmorton Street, Suite 1000

Fort Worth, Texas 76102

(817) 405-6900 telephone

(817) 405-6902 facsimile

Email: john@bondsellis.com

Email: joshua@bondsellis.com

Email: bryan.assink@bondsellis.com

-and-

Deborah Deitsch-Perez

State Bar No. 24036072

Michael P. Aigen

State Bar No. 24012196

STINSON LLP

3102 Oak Lawn Avenue, Suite 777

Dallas, Texas 75219

(214) 560-2201 telephone

(214) 560-2203 facsimile

Email: deborah.deitschperez@stinson.com

Email: michael.aigen@stinson.com

ATTORNEYS FOR DEFENDANT JAMES DONDERO

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on 4/26/2021, a true and correct copy of the foregoing document was served via email on counsel for the Debtor.

/s/ Bryan C. Assink
Bryan C. Assink

OBJECTIONS AND ANSWERS

INTERROGATORY NO. 1: With respect to each Note, identify:

- (a) the person who entered into each Purported Agreement on behalf of the Debtor;
- (b) the date each Purported Agreement was entered into; and
- (c) all documents that reflect or memorialize each Purported Agreement.

ANSWER:

The Agreements were entered into on behalf of the Debtor by James Dondero, subsequent to the time each Note was executed. Documents reflecting or memorializing the Agreements, if any, will be produced at a mutually agreeable time and location.

INTERROGATORY NO. 2: Identify every person who James Dondero believes has actual knowledge of each Purported Agreement.

ANSWER:

Dondero objects to this interrogatory (1) to the extent it seeks privileged information, (2) because it requires Dondero to speculate as to what other people know and believe, and (3) because the phrase “actual knowledge” is not defined. Subject to these objections, Dondero believes the following individuals may have actual knowledge of each Purported Agreement:

James Dondero

Frank Waterhouse

Mark Okada

John Honis

Scott Ellington

INTERROGATORY NO. 3: Identify (a) anything of value that was received by James Dondero (or for his benefit) in exchange for each Note, and (b) the date anything of value that was received by James Dondero (or for his benefit) in exchange for each Note.

ANSWER:

Dondero received the funds evidenced in each Note on or about the date that each Note was entered into by the parties to the Notes.

INTERROGATORY NO. 4: Identify each witness James Dondero intends to call at trial in this Adversary Proceeding.


ANSWER:

Dondero will identify witnesses in accordance with the scheduling order governing this proceeding.

VERIFICATION

STATE OF TEXAS)
)
COUNTY OF DALLAS)


On this day, James D. Dondero appeared before me, the undersigned notary public, and upon his oath, certified that he had read Defendant's Objections and Answers to Highland Capital Management, L.P.'s First Set of Interrogatories and that the facts stated therein are within his personal knowledge and are true and correct.



JAMES D. DONDERO

SWORN TO and SUBSCRIBED before me by James D. Dondero on the 26th day of April, 2021.





Notary Public in and for the State of Texas

EXHIBIT 83

Appx. 01398

PRELIMINARY STATEMENT

1. The first sentence of paragraph 1 of the Complaint sets forth the Plaintiff's objective in bringing the Complaint and does not require a response. To the extent it contains factual allegations, they are denied. The second sentence contains a legal conclusion that does not require a response. To the extent it contains factual allegations, they are denied.

2. Paragraph 2 contains a summary of the relief the Plaintiff seeks and does not require a response. To the extent it contains factual allegations, they are denied.

JURISDICTION AND VENUE

3. The Defendant admits that this Adversary Proceeding relates to the Plaintiff's bankruptcy case but denies any implication that this fact confers Constitutional authority on the Bankruptcy Court to adjudicate this dispute. Any allegations in paragraph 3 not expressly admitted are denied.

4. The Defendant admits that the Court has statutory (but not Constitutional) jurisdiction to hear this Adversary Proceeding. Any allegations in paragraph 4 not expressly admitted are denied.

5. The Defendant denies that a breach of contract claim is core. The Defendant denies that a § 542(b) turnover proceeding is the appropriate mechanism to collect a contested debt. The Defendant admits that a § 542(b) turnover proceeding is statutorily core but denies that it is Constitutionally core under *Stern v. Marshall*. The Defendant does not consent to the Bankruptcy Court entering final orders or judgment in this Adversary Proceeding. Any allegations in paragraph 5 not expressly admitted are denied.

6. The Defendant admits paragraph 6 of the Complaint.

THE PARTIES

7. The Defendant admits paragraph 7 of the Complaint.
8. The Defendant admits paragraph 8 of the Complaint.

CASE BACKGROUND

9. The Defendant admits paragraph 9 of the Complaint.
10. The Defendant admits paragraph 10 of the Complaint.
11. The Defendant admits paragraph 11 of the Complaint.
12. The Defendant admits paragraph 12 of the Complaint.

STATEMENT OF FACTS

13. The Defendant admits that he has executed promissory notes under which the Debtor is the payee. Any allegations in paragraph 13 not expressly admitted are denied.

14. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 14 of the Complaint. Defendant admits that the attached document appears to be a copy of the referenced note.

15. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 15 of the Complaint. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in the second sentence of paragraph 15 of the Complaint and therefore denies same.

16. The Defendant admits that he executed a note as alleged in the first sentence of paragraph 16 of the Complaint. Defendant admits that the attached document appears to be a copy of the referenced note.

17. The Defendant admits that section 2 of each note attached to the Complaint contains the provision quoted in paragraph 17 of the Complaint.

18. The Defendant denies the allegations in paragraph 18 of the Complaint. It appears that the provisions of each Note differ. Accordingly, the allegations made in this paragraph are denied.

19. The Defendant denies the allegations in paragraph 19 of the Complaint. It appears that the provisions of each Note differ. Accordingly, the allegations made in this paragraph are denied.

20. In response to paragraph 20 of the Complaint, the Defendant admits that Exhibit 4 to the Complaint (the “Demand Letter”) is a true and correct copy of what it purports to be and that the document speaks for itself. To the extent paragraph 20 of the Complaint asserts a legal conclusion, no response is required, and it is denied. To the extent not expressly admitted, paragraph 20 of the Complaint is denied.

21. To the extent paragraph 21 of the Complaint asserts a legal conclusion, no response is necessary, and it is denied. The Defendant otherwise admits paragraph 21 of the Complaint.

22. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 22 of the Complaint and therefore denies same.

23. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 23 of the Complaint and therefore denies same.

24. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 24 of the Complaint and therefore denies same.

25. The Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 25 of the Complaint and therefore denies same.

26. The Defendant denies the allegations in paragraph 26 of the Complaint.

FIRST CLAIM FOR RELIEF
(For Breach of Contract)

27. Paragraph 27 of the Complaint is a sentence of incorporation that does not require a response. All prior denials are incorporated herein by reference.

28. Paragraph 28 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 28 of the Complaint and therefore denies same.

29. Paragraph 29 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 29 of the Complaint and therefore denies same.

30. Paragraph 30 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 30 of the Complaint and therefore denies same.

31. The Defendant denies paragraph 31 of the Complaint.

SECOND CLAIM FOR RELIEF
(Turnover by Mr. Dondero Pursuant to 11 U.S.C. § 542(b))

32. Paragraph 32 of the Complaint is a sentence of incorporation that does not require a response. All prior denials are incorporated herein by reference.

33. Paragraph 33 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 33 of the Complaint and therefore denies same.

34. Paragraph 34 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 34 of the Complaint and therefore denies the same.

35. The Defendant denies paragraph 35 of the Complaint.

36. Paragraph 36 of the Complaint states a legal conclusion that does not require a response. The Defendant admits that the Plaintiff transmitted the Demand Letter, and that document speaks for itself. To the extent paragraph 36 alleges other facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 36 of the Complaint and therefore denies the same.

37. The Defendant denies paragraph 37 of the Complaint.

38. Paragraph 38 of the Complaint states a legal conclusion that does not require a response. To the extent it alleges facts, the Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in paragraph 38 of the Complaint and therefore denies the same.

39. The Defendant denies that the Plaintiff is entitled to the relief requested in the prayer, including as to parts (i), (ii), and (iii).

AFFIRMATIVE DEFENSES

40. Defendant asserts that Plaintiff's claims should be barred because prior to the demands for payment Plaintiff agreed that it would not collect on the Notes upon fulfillment of conditions subsequent.

41. Defendant further asserts that Plaintiff's claim should be barred, or reduced, in whole or in part, pursuant to Defendant's right to set off a mutual obligation owed to Defendant

by Plaintiff under state and/or federal law, including pursuant to 11 U.S.C. § 553. Plaintiff owes Defendant a debt that should set off or reduce any amounts that Defendant is found to owe Plaintiff on the Notes.

42. Defendant further asserts that Plaintiff's claims are barred, in whole or in part, due to waiver.

43. Defendant further asserts that Plaintiff's claims are barred, in whole or in part, due to estoppel.

44. Defendant further asserts that Plaintiff's claims are barred, in whole or in part, due to failure of consideration.

45. Defendant further asserts that each Note is ambiguous.

JURY DEMAND

46. The Defendant demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure and Rule 9015 of the Federal Rules of Bankruptcy Procedure.

47. The Defendant does not consent to the Bankruptcy Court conducting a jury trial and therefore demands a jury trial in the District Court.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Defendant respectfully request that, following a trial on the merits, the Court enter a judgment that the Plaintiff take nothing on the Complaint and provide the Defendant such other relief to which he is entitled.

Dated: April 6, 2021

Respectfully submitted,

/s/ Bryan C. Assink

D. Michael Lynn – State Bar ID 12736500
John Y. Bonds, III – State Bar ID 02589100
John T. Wilson, IV – State Bar ID 24033344
Bryan C. Assink – State Bar ID 24089009
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**ATTORNEYS FOR DEFENDANT
JAMES DONDERO**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on April 6, 2021, a true and correct copy of this document was served via the Court's CM/ECF system on counsel for the Plaintiff.

/s/ Bryan C. Assink

Bryan C. Assink

EXHIBIT 84

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ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION**

In re:	§	Case No. 19-34054
	§	
HIGHLAND CAPITAL MANAGEMENT, L.P.	§	Chapter 11
	§	
Debtor.	§	

HIGHLAND CAPITAL MANAGEMENT, L.P.,	§	
	§	
Plaintiff.	§	
	§	
v.	§	Adversary No. 21-03003-sgj
	§	
JAMES D. DONDERO,	§	
	§	
Defendant.	§	

**DEFENDANT JAMES DONDERO’S OBJECTIONS AND RESPONSES
 TO HIGHLAND CAPITAL MANAGEMENT, L.P.’S
SECOND REQUEST FOR ADMISSIONS**

TO: Highland Capital Management, L.P., by and through its attorneys of record, Zachery Z. Annable, Hayward PLLC, 10501 N. Central Expy., Ste. 106, Dallas, Texas 75231.

Defendant James Dondero (“Defendant” or “Dondero”) serves his Objections and Responses to Debtor Highland Capital Management, L.P.’s (“Debtor” or “Highland”) Second Request for Admissions (“Requests”), as follows:

Exhibit 11

Dated: May 7, 2021

Respectfully submitted,

/s/Deborah Deitsch-Perez

John Y. Bonds, III
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State Bar I.D. No. 24033261
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-and-

Deborah Deitsch-Perez
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Email: michael.aigen@stinson.com

ATTORNEYS FOR DEFENDANT JAMES DONDERO

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on May 7, 2021, a true and correct copy of the foregoing document was served via email on counsel for the Debtor.

/s/ Michael P. Aigen

Michael P. Aigen

OBJECTIONS AND RESPONSES¹

REQUEST FOR ADMISSION NO. 1: Admit that in December 2019, James Dondero made a payment to the Debtor, a portion of which was applied to reduce principal and/or interest due under one or more of the Notes.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 2: Admit that James Dondero did not file a proof of claim in the Bankruptcy Case concerning or relating to the “mutual obligation” referred to in paragraph 41 of the Amended Answer.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 3: Admit that James Dondero did not file a proof of claim in the Bankruptcy Case concerning or relating to the “debt” referred to in paragraph 41 of the Amended Answer.

RESPONSE:

ADMIT.

REQUEST FOR ADMISSION NO. 4: Admit that prior to serving his Amended Answer, James Dondero never informed the Debtor of his belief that any provision of any of the Notes was ambiguous, as alleged in paragraph 45 of the Amended Answer.

RESPONSE:

DENY.

REQUEST FOR ADMISSION NO. 5: Admit that as of the date of the service of these Requests for Admission, James Dondero has not (a) identified any particular provision or clause of any Note that he contends is ambiguous (any such provision or clause, the “Identified Provision”), and (b) informed the Debtor of the Identified Provision.

¹ Defendant makes these responses subject in all respects to his Motion for Withdrawal of the Reference [Adv. Dkt. No. 21] and the Motion to Stay Pending the Motion to Withdraw the Reference of Plaintiff’s Complaint [Adv. Dkt. No. 22] filed on April 15, 2021. For the reasons stated in the motions, Defendant believes that the reference should be withdrawn and this proceeding stayed while the motion to withdraw the reference is considered. Defendant does not waive, but instead hereby preserves, his right to a jury trial and all rights and requests for relief asserted in the motions. Defendant does not consent to the Bankruptcy Court determining this proceeding or entering final orders or judgments in this proceeding. Defendant requests that the reference be withdrawn and that the District Court adjudicate this proceeding.

RESPONSE:

DENY.

EXHIBIT 85

EXHIBIT 20

Exhibit 12

Appx. 01413

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ATTORNEYS FOR DEFENDANT JAMES DONDERO

**IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION**

In re: HIGHLAND CAPITAL MANAGEMENT, L.P. Debtor.	§ § § § §	Case No. 19-34054 Chapter 11 <hr style="border: 0.5px solid black;"/> § HIGHLAND CAPITAL MANAGEMENT, L.P., § § Plaintiff. § § v. § § JAMES D. DONDERO, § § Defendant. §
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Adversary No. 21-03003-sgj

**DEFENDANT JAMES DONDERO'S OBJECTIONS AND ANSWERS
 TO HIGHLAND CAPITAL MANAGEMENT, L.P.'S
SECOND SET OF INTERROGATORIES**

TO: Highland Capital Management, L.P., by and through its attorneys of record, Zachery Z. Annable, Hayward PLLC, 10501 N. Central Expy., Ste. 106, Dallas, Texas 75231.

Defendant James Dondero ("Defendant" or "Dondero") serves his Objections and Answers to Debtor Highland Capital Management, L.P.'s ("Debtor" or "Highland") Second Set of Interrogatories ("Requests"), as follows:

Dated: May 7, 2021

Respectfully submitted,

/Deborah Deitsch-Perez

John Y. Bonds, III
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Clay M. Taylor
State Bar I.D. No. 24033261
Bryan C. Assink
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-and-

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Email: michael.aigen@stinson.com

ATTORNEYS FOR DEFENDANT JAMES DONDERO

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that, on May 7, 2021, a true and correct copy of the foregoing document was served via email on counsel for the Debtor.

/s/ Michael P. Aigen

Michael P. Aigen

OBJECTIONS AND ANSWERS¹

INTERROGATORY NO. 1: Identify the “conditions subsequent” referred to in paragraph 40 of the Amended Answer.

ANSWER:

The conditions subsequent referred to in paragraph 40 of the Amended Answer refer to the disposition of the portfolio company interests managed and/or owned, directly or indirectly, by Highland and/or its affiliates or managed funds on a favorable basis or on a basis wholly outside Dondero’s control.

INTERROGATORY NO. 2: With respect to each Note, identify:

(a) the person who provided legal advice to James Dondero in connection with the negotiation, drafting, and execution of each Note, if any;

(b) the person who provided legal advice to the Debtor in connection with the negotiation, drafting, and execution of each Note, if any; and

(c) the person who drafted each Note.

ANSWER:

Dondero objects to this interrogatory to the extent that it seeks privileged information. Subject to this objection, Dondero responds as follows:

Dondero does not know who specifically drafted the Notes, however, he believes they were drafted by an individual in either the Highland legal or finance department.

INTERROGATORY NO. 3: Identify the “mutual obligation” referred to in paragraph 41 of the Amended Answer, including (a) the date the mutual obligation was incurred, (b) any documents referring to or reflecting the mutual obligation, (c) the amount of the mutual obligation, (d) any demands made by James Dondero to the Debtor for payment on the mutual obligation.

¹ Defendant makes these responses subject in all respects to his Motion for Withdrawal of the Reference [Adv. Dkt. No. 21] and the Motion to Stay Pending the Motion to Withdraw the Reference of Plaintiff’s Complaint [Adv. Dkt. No. 22] filed on April 15, 2021. For the reasons stated in the motions, Defendant believes that the reference should be withdrawn and this proceeding stayed while the motion to withdraw the reference is considered. Defendant does not waive, but instead hereby preserves, his right to a jury trial and all rights and requests for relief asserted in the motions. Defendant does not consent to the Bankruptcy Court determining this proceeding or entering final orders or judgments in this proceeding. Defendant requests that the reference be withdrawn and that the District Court adjudicate this proceeding.

ANSWER:

Defendant is not pursuing in this action the mutual obligation referred to in paragraph 41 of the Amended Answer, which refers to potential contribution and/or indemnity claims that are largely unliquidated and contingent, and which Dondero cannot identify until all potential claims are resolved.

INTERROGATORY NO. 4: Identify every person James Dondero believes has personal knowledge of the alleged mutual obligation referred to in paragraph 41 of the Amended Answer.

ANSWER:

James Dondero

Frank Waterhouse

Mark Okada

John Honis

Scott Ellington

INTERROGATORY NO. 5: Identify the “debt” referred to in paragraph 41 of the Amended Answer, including (a) the date the debt was incurred, (b) any documents referring to or reflecting the debt, (c) the amount of the mutual obligation, (d) any demands made by James Dondero to the Debtor for payment on the debt.

ANSWER:

See Response to Interrogatory No. 3.

INTERROGATORY NO. 6: Identify every person James Dondero believes has personal knowledge of the alleged debt referred to in paragraph 41 of the Amended Answer.

ANSWER:

See Response to Interrogatory No. 3.

INTERROGATORY NO. 7: Identify each provision of each Note that James Dondero contends is ambiguous.


ANSWER:

Dondero contends that each Note as a whole is ambiguous because it refers to additional agreements without specifying them.

VERIFICATION

STATE OF TEXAS)
)
COUNTY OF DALLAS)

On this day, James D. Dondero appeared before me, the undersigned notary public, and upon his oath, certified that he had read Defendant's Objections and Answers to Highland Capital Management, L.P.'s Second Set of Interrogatories and that the facts stated therein are within his personal knowledge and are true and correct.



JAMES D. DONDERO

SWORN TO and SUBSCRIBED before me by James D. Dondero on the 7th day of May, 2021.

Notary Public in and for the State of Texas

EXHIBIT 86

HIGHLAND CAPITAL MANAGEMENT

May 18, 2018

PricewaterhouseCoopers LLP
2001 Ross Avenue, Suite 1800
Dallas, TX 75201

We are providing this letter in connection with your audit of the consolidated financial statements of Highland Capital Management, L.P. and its subsidiaries (Appendix 1), (hereinafter collectively referred to as the "Partnership") as of December 31, 2017 (hereinafter referred to as the "balance sheet date") and the related consolidated statements of income, of changes in partners' capital, and of cash flows for the year then ended (hereinafter referred to as the "period"), (hereinafter collectively referred to as the "consolidated financial statements"), for the purpose of expressing an opinion as to whether such consolidated financial statements present fairly, in all material respects, the financial position, results of operations, changes in partners' capital and of cash flows of the Partnership in conformity with accounting principles generally accepted in the United States of America. We acknowledge and confirm that we have fulfilled our responsibility, as set out in our engagement letter of February 2, 2018, for the preparation and fair presentation in the consolidated financial statements of financial position, results of operations, changes in partners' capital and of cash flows in conformity with accounting principles generally accepted in the United States of America, including the appropriate selection of accounting policies.

Certain representations in this letter are described as being limited to those matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement. Materiality used for purposes of these representations is \$2,000,000.

We confirm, to the best of our knowledge and belief, as of May 18, 2018, the date of your report, the following representations made to you during your audit:

General

1. The consolidated financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America (US GAAP), and include all disclosures necessary for such fair presentation and disclosures otherwise required to be included therein by the laws and regulations to which the Partnership is subject. We have prepared the Partnership's consolidated financial statements on the basis that the Partnership is able to continue as a going concern. There are no conditions or events, considered in the aggregate, that raise substantial doubt about the Partnership's ability to continue as a going concern within one year after the date these consolidated financial statements are issued.
2. We have made available to you:
 - a. All financial records and related data.
 - b. Unconditional access to persons within the entity from whom you have requested audit evidence.

Exhibit 14

- c. All minutes of the meetings of committees or other governing bodies applicable to the Partnership, including but not limited to, investors, Partners and committees of Partners, including summaries of actions of recent meetings for which minutes have not yet been prepared. The most recent meetings held were Pricing Committee, May 11, 2018.
 - d. Partnership agreements, Memoranda and Articles of Association, Confidential Offering Memoranda and amendments thereto (individually or collectively referred to hereinafter as the "Governing Documents"), and all other agreements to which the Partnership is subject.
 - e. Contracts or other agreements with the Partnership's service providers.
 - f. All official written reports, findings, recommendations and communications from specialists or professional advisors engaged to review investments, systems, processes, operations, or compliance programs of the Partnership that are material to the Partnership, individually or in aggregate.
 - g. All side letter arrangements, whether written or oral, with any investors entered into or cancelled during the period for which noncompliance would have a material effect on the Partnership's consolidated financial statements. These side letters are allowed under the terms of the Governing Documents.
 - h. Withdrawal requests submitted or communicated by investors through the date of this letter.
3. We are responsible for all significant estimates and judgments affecting the consolidated financial statements. Significant estimates and judgments and their underlying assumptions, methods, procedures and the source and reliability of supporting data are reasonable and based on applicable guidance, are completely and appropriately disclosed in the consolidated financial statements, and appropriately reflect management's intent and ability to carry out specific courses of action, where relevant. The procedures and methods utilized in developing assumptions, estimates and judgments are appropriate and have been consistently applied in the periods presented. There have been no subsequent events which would require the adjustment of any significant estimate and related disclosures.

Legal and Regulatory Compliance

- 4. There have been no communications from regulatory agencies concerning the Partnership's noncompliance with or deficiencies in financial reporting practices.
- 5. There have been no violations or possible violations of laws or regulations whose effects should be considered for disclosure in the consolidated financial statements or as a basis for recording a loss contingency.
- 6. The Partnership has complied with all aspects of contractual agreements that would have a material effect on the consolidated financial statements in the event of noncompliance.

Fraud

- 7. We acknowledge our responsibility for the design and implementation of programs and controls to provide reasonable assurance that fraud is prevented and detected.

8. We have disclosed to you the results of our assessment of the risk that the consolidated financial statements may be materially misstated as a result of fraud and we have no knowledge of any fraud or suspected fraud affecting the Partnership involving:
 - a. Partnership management or its affiliates,
 - b. Employees who have significant roles in the Partnership's internal control over financial reporting, or
 - c. Others where the fraud could have a material effect on the consolidated financial statements.
9. Except for previously disclosed, we have no knowledge of any allegations of fraud or suspected fraud affecting the Partnership received in communications from employees, former employees, regulators, service providers, counterparties, current or former investors, or others.

(As to items 7, 8, and 9, we understand the term "fraud" to mean those matters described in AICPA AU-C 240.)

Assets, Liabilities and Capital

Assets:

10. The Partnership has satisfactory title to all owned assets, including investments, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral, including, but not limited to, assets pledged or assigned as security for liabilities and performance of contracts, except as disclosed in the consolidated financial statements. All deposit and brokerage accounts and all investments and other assets of the Partnership of which we are aware are included in the consolidated financial statements.
11. Receivables recorded in the consolidated financial statements represent bona fide claims against debtors for transactions arising on or before the balance sheet date. All receivables have been appropriately reduced to their estimated net realizable value. Receivables, if any, from shareholders/partners or their affiliates, have been collected before the date of this letter.
12. We have evaluated all transfers of financial assets during the period, including, but not limited to, transfers between the Partnership and other affiliates, to determine that control over the transferred assets has been surrendered and that all of the conditions in accordance with Accounting Standards Codification (ASC) 860, *Transfers and Servicing*, ASC 860-10-40-5 have been met.

Investments:

With respect to Partnership's investments:

13. Portfolio investments included in the Partnership's consolidated financial statements have been stated at fair values as determined by management in accordance with the valuation methods set forth in the Governing Documents and related policies and procedures. Such policies are in accordance with US GAAP (e.g., fair value of an investment is that price which would be received to sell or paid to transfer, respectively, those assets or liabilities in orderly transactions between market participants).

14. The valuation policies used for securities or investments whose fair values have been estimated by management are appropriate and have been consistently applied and documented. The policies for fair value measurement are appropriately disclosed in the Partnership's consolidated financial statements. The methods, assumptions, and inputs used are appropriate and result in a fair value appropriate for consolidated financial statement measurement and disclosure purposes. As of the balance sheet date, the investments for which fair value were determined by estimates made by Partnership are appropriately disclosed in the Partnership's consolidated financial statements.
15. We have informed you of any investments as of the balance sheet date that have restrictions on their sale or transferability. We have appropriately considered restrictions that are an attribute of the investment in our fair value determination.
16. The cost of portfolio securities was determined on the basis of FIFO method.
17. All Partnership investments made during the period were in accordance with the investment policies stated in the Governing Documents. All investments made during the period were authorized by appropriate personnel.
18. We have made available to you all information received from third party specialists engaged with respect to the valuation of investments. We believe that the data used in the work of the third-party specialists is accurate, complete, and relevant, and that our fair value determinations have been properly determined using such data and assumptions. We assume responsibility for, and are responsible for the evaluation of, the findings of third-party specialists in order to determine the fair value of the investments. We have adequately considered the qualifications of the third-party specialists in determining the amounts and disclosures used in the consolidated financial statements and underlying accounting records. We did not give nor cause any instructions to be given to third-party specialists with respect to the values or amounts derived in an attempt to bias their work, and we are not otherwise aware of any matters that have had an impact on the objectivity of the third-party specialists.
19. We evaluated all contracts and financial instruments to determine whether they meet the definition of a derivative under ASC 815, Derivatives and Hedging (ASC 815).

Liabilities:

20. All liabilities of the Partnership of which we are aware are included in the consolidated financial statements at the balance sheet date. There are no other liabilities or gain or loss contingencies that are required to be recognized or disclosed by ASC 450, *Contingencies*, and no unasserted claims or assessments that our legal counsel has advised us are probable of assertion and required to be disclosed in accordance with that Topic.
21. The Partnership is not an "SEC registrant" as that term is used in ASC 480, *Distinguishing Liabilities from Equity*, 480-10-65-1. The Partnership has properly classified and disclosed as liabilities its mandatorily redeemable securities and other financial instruments (e.g., payable) that are within the scope of ASC 480-10-65, *Effective Date, Disclosures, and Transition for Mandatorily Redeemable Financial Instruments of Certain Nonpublic Entities and Certain Mandatorily Redeemable Noncontrolling Interests*, in the consolidated financial statements.
22. The actuarial valuation of pension benefit obligations was determined using an acceptable methodology applied on a consistent basis and taking into account the individual characteristics of

the plan and reasonable assumptions, including those for the discount rate, rate of return on plan assets, mortality rate and other demographic assumptions.

23. We accurately described the processes used by management to make investment decisions, including the target allocation percentages or range of percentages for each major category of plan assets, and to determine the overall expected long-term rate of return on assets.
24. The amounts of expected employer contributions to the benefit plan during the next fiscal year represent our best estimate.
25. We do not intend to compensate for the reduction of postretirement benefits by granting an increase in pension or other benefits.
26. We applied the recognition, disclosure and measurement date provisions of ASC 715, Compensation-Retirement Benefits (ASC 715). The resulting benefit asset represents the overfunded status of the plan, and accumulated other comprehensive income includes all previously unrecognized prior service costs and credits, net gains/losses and transition assets and obligations, net of taxes.
27. We measured and recognized all plan assets as of the plan's measurement date at fair value in accordance with ASC 715, Compensation- Retirement Benefits (ASC 715).

Capital:

28. Partner capital balances, including the allocation of income, gains and losses, and the calculation of management fees and incentive fees/allocation have been properly calculated throughout the period in accordance with the Governing Documents, after giving consideration to the terms identified in each investor's subscription document. The methodology was consistently applied throughout the period and was correctly applied in the computation of contribution and withdrawal transactions during the period.

Statement of Income

29. All material expenses charged to the Partnership are permissible under the terms of the Governing Documents. All directed brokerage and other expense reimbursement agreements, if any, have been properly disclosed in the consolidated financial statements.

Tax Matters

30. There are no material tax liabilities incurred by the Partnership under the provisions of ASC 740, *Income Taxes*. We have made the necessary provisions and disclosures in the consolidated financial statements as required by ASC 740, *Income Taxes*. The resulting liabilities are supported by specifically identified income tax exposures.
31. We have provided you with all information and our assessment related to all significant uncertain income tax positions that we have taken, or expect to take, of which we are aware. We have also provided you with access to all opinions, rulings, memoranda and analyses that relate to positions we have taken in regard to significant income tax matters. We are responsible for the accuracy and completeness of information provided to external counsel and we believe that the facts are consistent with any stated assumptions made by external counsel for purposes of forming such tax opinions. We have made you aware of and have disclosed all significant tax positions for which it is reasonably

possible the amount of unrecognized tax benefit will either increase or decrease in the next 12 months.

Disclosure and Presentation of Consolidated Financial Statements

32. The effects of the uncorrected consolidated financial statement misstatements are immaterial, both individually and in the aggregate, to the consolidated financial statements taken as a whole.
33. We have appropriately reconciled the Partnership books and records (including, but not limited to, general ledger accounts, financial accounts maintained outside the general ledger and trial balances) underlying the consolidated financial statements to their related supporting information (e.g., sub ledger, or third-party data). All related reconciling items considered to be material were identified and included on the reconciliations and were appropriately adjusted in the consolidated financial statements, as necessary. There were no material un-reconciled differences or material general ledger suspense account items that should have been adjusted or reclassified to another account balance. There were no material general ledger suspense account items written off to a balance sheet account, which should have been written off to a statement of operations account and vice versa. All consolidating entries have been properly recorded. All intra-entity accounts have been eliminated or appropriately measured and considered for disclosure in the consolidated financial statements.
34. There are no material transactions, agreements or accounts that have not been properly recorded in the accounting records underlying the consolidated financial statements.
35. The following, if material, have been properly recorded or disclosed in the consolidated financial statements:
 - a. Agreements to repurchase assets previously sold.
 - b. All pertinent rights and privileges of both general partner and limited partner interests in the Partnership.
 - c. Fee income and expenses associated with stock lending and borrowing arrangements.
 - d. Relationships and transactions with related parties, as described in ASC 850, *Related Party Disclosures*, including revenue, purchases and sales of securities, transfers, guarantees, other fees and expenses charged to the Partnership, and amounts receivable from or payable to related parties.
 - e. Significant estimates and material concentrations known to us that are required to be disclosed in accordance with ASC 275, *Risks and Uncertainties*. (Significant estimates are estimates at the balance sheet date that could change materially within the next year. Concentrations refer to matters such as volume of investment activity, available sources of financing, markets or geographic areas for which events could occur that would significantly disrupt investment performance within the next year.)
 - f. All cash and deposit accounts and all other properties and assets of the Partnership are included in the consolidated financial statements.
 - g. All financial instruments, including those with off-balance-sheet risk (including, but not limited to, swaps, forwards and futures), as required under US GAAP. This includes the following information with respect to the off-balance-sheet risks and the concentrations of credit risk:

- i. The extent, nature, and terms of financial instruments with off-balance-sheet risk.
 - ii. The amount of credit risk of financial instruments with off-balance-sheet risk and information about the collateral supporting such financial instruments.
 - h. Each significant concentration of credit risk arising from all financial instruments, and information about the collateral supporting such financial instruments, whether from an individual counterparty/prime broker or group of counterparties/prime brokers in accordance with ASC 825, *Financial Instruments*, and ASC 815, *Derivatives and Hedging* (ASC 815), 815-10-50.
 - i. Commitments to purchase or sell financial instruments, commitments on certain debt instruments such as revolving credit facilities and obligations to fund capital calls.
 - j. Guarantees, whether written or oral, under which the Partnership is contingently liable.
 - k. Transactions made in foreign currencies.
 - l. Transactions made on margin or selling short.
36. We have disclosed to you the identity of the Partnership's related parties and all the related party relationships and transactions of which we are aware.
37. The Partnership has classified and disclosed financial assets and liabilities in the consolidated financial statements as Level 1, Level 2 and Level 3 in accordance with ASC 820, *Fair Value Measurement*, including a description of inputs and information used to develop valuation techniques as well as facts that required a change to such techniques, where applicable. We have made appropriate disclosures in accordance with Accounting Standards Update (ASU) 2011-11, *Disclosures about Offsetting Assets and Liabilities*, when the Partnership has the right of setoff in accordance with a master netting or similar agreement. The netting of assets and liabilities has been performed in accordance with the specific requirements of ASC 210, *Balance Sheet*, 210-20-45-1 and ASC 815-10-45-5.
38. The Partnership has properly recorded, classified and disclosed the prime broker margin collateral requirements in the consolidated financial statements in accordance with ASC 860, *Transfers and Servicing*, as to the recognition and reclassification of collateral and disclosures relating to securitization transactions and collateral.
39. We consistently applied our policy regarding classification of cash and cash equivalents, which are short-term, highly liquid investments that are readily convertible to known amounts of cash and are so near their maturity that there is insignificant risk of changes in value due to interest rate or other credit risk changes.
40. All borrowings and financial obligations of the Partnership have been disclosed to you and are properly recorded in the consolidated financial statements.
41. The Partnership has not made any commitments during the year as underwriter, nor did it engage in joint trading or a joint investment account.


Other

- i. The extent, nature, and terms of financial instruments with off-balance-sheet risk.
 - ii. The amount of credit risk of financial instruments with off-balance-sheet risk and information about the collateral supporting such financial instruments.
 - h. Each significant concentration of credit risk arising from all financial instruments, and information about the collateral supporting such financial instruments, whether from an individual counterparty/prime broker or group of counterparties/prime brokers in accordance with ASC 825, *Financial Instruments*, and ASC 815, *Derivatives and Hedging* (ASC 815), 815-10-50.
 - i. Commitments to purchase or sell financial instruments, commitments on certain debt instruments such as revolving credit facilities and obligations to fund capital calls.
 - j. Guarantees, whether written or oral, under which the Partnership is contingently liable.
 - k. Transactions made in foreign currencies.
 - l. Transactions made on margin or selling short.
36. We have disclosed to you the identity of the Partnership's related parties and all the related party relationships and transactions of which we are aware.
37. The Partnership has classified and disclosed financial assets and liabilities in the consolidated financial statements as Level 1, Level 2 and Level 3 in accordance with ASC 820, *Fair Value Measurement*, including a description of inputs and information used to develop valuation techniques as well as facts that required a change to such techniques, where applicable. We have made appropriate disclosures in accordance with Accounting Standards Update (ASU) 2011-11, *Disclosures about Offsetting Assets and Liabilities*, when the Partnership has the right of setoff in accordance with a master netting or similar agreement. The netting of assets and liabilities has been performed in accordance with the specific requirements of ASC 210, *Balance Sheet*, 210-20-45-1 and ASC 815-10-45-5.
38. The Partnership has properly recorded, classified and disclosed the prime broker margin collateral requirements in the consolidated financial statements in accordance with ASC 860, *Transfers and Servicing*, as to the recognition and reclassification of collateral and disclosures relating to securitization transactions and collateral.
39. We consistently applied our policy regarding classification of cash and cash equivalents, which are short-term, highly liquid investments that are readily convertible to known amounts of cash and are so near their maturity that there is insignificant risk of changes in value due to interest rate or other credit risk changes.
40. All borrowings and financial obligations of the Partnership have been disclosed to you and are properly recorded in the consolidated financial statements.
41. The Partnership has not made any commitments during the year as underwriter, nor did it engage in joint trading or a joint investment account.

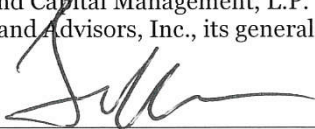
Other

50. We acknowledge responsibility for the presentation of the Supplemental Consolidating Balance Sheet, Supplemental Consolidating Statement of Income, Supplemental Unconsolidated Balance Sheet and Supplemental Unconsolidated Statement of Income in accordance with US GAAP and we believe such information, including its form and content, is fairly presented in accordance with US GAAP. We have communicated to you all changes in measurement or presentation from those used in the prior period. We have informed you about any significant assumptions or interpretations underlying the measurement or presentation of the information.

To the best of our knowledge and belief, no events have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustments to, or disclosure in, the aforementioned consolidated financial statements.



James Dondero, President
Highland Capital Management, L.P.
By: Strand Advisors, Inc., its general partner



Frank Waterhouse, Treasurer
Highland Capital Management, L.P.
By: Strand Advisors, Inc., its general partner

Appendix 1

Highland Multi Strategy Credit Fund, L.P.

Highland Multi-Strategy Master Fund, L.P.

Highland Multi-Strategy Fund, L.P.

Highland Restoration Capital Partners Offshore, L.P.

Highland Restoration Capital Partners, L.P.

BB Votorantim, Highland Infrastructure LLC

Highland Capital Special Allocation, LLC

Highland Receivables Finance 1, LLC

Highland Brasil, LLC

Highland Capital Management Partners Charitable Trust #1

Highland Capital Management (Singapore) Pte, Ltd. Highland Capital Management Korea, Ltd.

Highland Capital Management Latin America, L.P.

HE Capital, LLC

De Kooning, Ltd.

Hirst, Ltd.

Hockney, Ltd.

Oldenburg, Ltd.

Eames, Ltd.

Penant Management, L.P.

Pollack, Ltd.

Warhol, Ltd.

HCREF- I Holding Corp.

HCREF-XI Holding Corp.

HCREF-XII Holding Corp.

Highland ERA Management, LLC

The Dondero Insurance Rabbi Trust

Appendix 1 (continued)

The Okada Insurance Rabbi Trust

Highland Employee Retention Assets, LLC

Highland Diversified Credit Fund, L.P.

Highland Select Equity Master Fund, L.P.

Highland Select Equity Fund, L.P.

Bandera Strategic Credit Partners I SLP, L.P.

Highland Fund Holdings, LLC

HCM Holdco, LLC

Maple Avenue Holdings, LLC

Highland HCF Advisor, Ltd.

EXHIBIT 87

Fill in this information to identify the case:Debtor name Highland Capital Management, L.P.United States Bankruptcy Court for the: NORTHERN DISTRICT OF TEXASCase number (if known) 19-34054-SGJ☐ Check if this is an amended filing**Official Form 207****Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy**

04/19

The debtor must answer every question. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write the debtor's name and case number (if known).

Part 1: Income**1. Gross revenue from business**☐ None.**Identify the beginning and ending dates of the debtor's fiscal year, which may be a calendar year****From the beginning of the fiscal year to filing date:**
From 1/01/2019 to **Filing Date****Sources of revenue**
Check all that apply☒ Operating a business☒ Other Exhibit A**Gross revenue**
(before deductions and exclusions)\$28,431,156.97**From the beginning of the fiscal year to filing date:**
From 1/01/2019 to **Filing Date**☐ Operating a business☒ Other Exhibit A - Other Gain/(Loss)\$125,310,540.63**For prior year:**
From 1/01/2018 to 12/31/2018☒ Operating a business☒ Other Exhibit A\$50,365,069.40**For prior year:**
From 1/01/2018 to 12/31/2018☐ Operating a business☒ Other Exhibit A - Other Gain/(Loss)\$-52,929,268.33**For year before that:**
From 1/01/2017 to 12/31/2017☒ Operating a business☒ Other Exhibit A\$67,911,079.00**For year before that:**
From 1/01/2017 to 12/31/2017☐ Operating a business☒ Other Exhibit A - Other Gain/(Loss)\$47,701,590.21**Exhibit 19**

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****2. Non-business revenue**

Include revenue regardless of whether that revenue is taxable. *Non-business income* may include interest, dividends, money collected from lawsuits, and royalties. List each source and the gross revenue for each separately. Do not include revenue listed in line 1.

☒ None.

Description of sources of revenue

Gross revenue from each source (before deductions and exclusions)

Part 2: List Certain Transfers Made Before Filing for Bankruptcy**3. Certain payments or transfers to creditors within 90 days before filing this case**

List payments or transfers—including expense reimbursements—to any creditor, other than regular employee compensation, within 90 days before filing this case unless the aggregate value of all property transferred to that creditor is less than \$6,825. (This amount may be adjusted on 4/01/22 and every 3 years after that with respect to cases filed on or after the date of adjustment.)

☐ None.

Creditor's Name and Address	Dates	Total amount of value	Reasons for payment or transfer Check all that apply
3.1. Exhibit B		\$23,255,006.86	<input type="checkbox"/> Secured debt <input type="checkbox"/> Unsecured loan repayments <input type="checkbox"/> Suppliers or vendors <input type="checkbox"/> Services <input type="checkbox"/> Other___

4. Payments or other transfers of property made within 1 year before filing this case that benefited any insider

List payments or transfers, including expense reimbursements, made within 1 year before filing this case on debts owed to an insider or guaranteed or cosigned by an insider unless the aggregate value of all property transferred to or for the benefit of the insider is less than \$6,825. (This amount may be adjusted on 4/01/22 and every 3 years after that with respect to cases filed on or after the date of adjustment.) Do not include any payments listed in line 3. *Insiders* include officers, directors, and anyone in control of a corporate debtor and their relatives; general partners of a partnership debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(31).

☐ None.

Insider's name and address Relationship to debtor	Dates	Total amount of value	Reasons for payment or transfer
4.1. Exhibit C		\$36,608,252.91	

5. Repossessions, foreclosures, and returns

List all property of the debtor that was obtained by a creditor within 1 year before filing this case, including property repossessed by a creditor, sold at a foreclosure sale, transferred by a deed in lieu of foreclosure, or returned to the seller. Do not include property listed in line 6.

☒ None

Creditor's name and address	Describe of the Property	Date	Value of property
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6. Setoffs

List any creditor, including a bank or financial institution, that within 90 days before filing this case set off or otherwise took anything from an account of the debtor without permission or refused to make a payment at the debtor's direction from an account of the debtor because the debtor owed a debt.

☒ None

Creditor's name and address	Description of the action creditor took	Date action was taken	Amount
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Part 3: Legal Actions or Assignments**7. Legal actions, administrative proceedings, court actions, executions, attachments, or governmental audits**

List the legal actions, proceedings, investigations, arbitrations, mediations, and audits by federal or state agencies in which the debtor was involved in any capacity—within 1 year before filing this case.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None.

Case title Case number	Nature of case	Court or agency's name and address	Status of case
7.1. Exhibit D			<input type="checkbox"/> Pending <input type="checkbox"/> On appeal <input type="checkbox"/> Concluded
7.2. Internal dispute resolution department within the IRS	IRS Appeal	Department of the Treasury 4050 Alpha Road Suite 517, MC: 8000NDAL Dallas, TX 75201-7849	<input type="checkbox"/> Pending <input checked="" type="checkbox"/> On appeal <input type="checkbox"/> Concluded

8. Assignments and receivership

List any property in the hands of an assignee for the benefit of creditors during the 120 days before filing this case and any property in the hands of a receiver, custodian, or other court-appointed officer within 1 year before filing this case.

☒ None**Part 4: Certain Gifts and Charitable Contributions****9. List all gifts or charitable contributions the debtor gave to a recipient within 2 years before filing this case unless the aggregate value of the gifts to that recipient is less than \$1,000**☐ None

Recipient's name and address	Description of the gifts or contributions	Dates given	Value
9.1. Exhibit E	Debtor does not track recipient of gift or contribution.		\$445,725.61
Recipients relationship to debtor			

Part 5: Certain Losses**10. All losses from fire, theft, or other casualty within 1 year before filing this case.**☒ None

Description of the property lost and how the loss occurred	Amount of payments received for the loss	Dates of loss	Value of property lost
	<p>If you have received payments to cover the loss, for example, from insurance, government compensation, or tort liability, list the total received.</p> <p>List unpaid claims on Official Form 106A/B (Schedule A/B: Assets – Real and Personal Property).</p>		

Part 6: Certain Payments or Transfers**11. Payments related to bankruptcy**

List any payments of money or other transfers of property made by the debtor or person acting on behalf of the debtor within 1 year before the filing of this case to another person or entity, including attorneys, that the debtor consulted about debt consolidation or restructuring, seeking bankruptcy relief, or filing a bankruptcy case.

☐ None.

Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
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Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

	Who was paid or who received the transfer? Address	If not money, describe any property transferred	Dates	Total amount or value
11.1.	Development Specialists, Inc. 10 South LaSalle Suite 3300 Chicago, IL 60603		10/07/2019	\$250,000.00
	Email or website address dsiconsulting.com			
	Who made the payment, if not debtor?			
11.2.	Pachulski Stang Ziehl & Jones LLP 10100 Santa Monica Blvd. 13th Floor Los Angeles, CA 90067		10/02/2019	\$500,000.00
	Email or website address http://www.pszjlaw.com/			
	Who made the payment, if not debtor?			
11.3.	Kurtzman Carson Consultants LLC Dept CH 16639 Palatine, IL 60055		10/07/2019	\$50,000.00
	Email or website address https://www.kccllc.com/			
	Who made the payment, if not debtor?			

12. Self-settled trusts of which the debtor is a beneficiary

List any payments or transfers of property made by the debtor or a person acting on behalf of the debtor within 10 years before the filing of this case to a self-settled trust or similar device.

Do not include transfers already listed on this statement.

☒ None.

Name of trust or device	Describe any property transferred	Dates transfers were made	Total amount or value
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13. Transfers not already listed on this statement

List any transfers of money or other property by sale, trade, or any other means made by the debtor or a person acting on behalf of the debtor within 2 years before the filing of this case to another person, other than property transferred in the ordinary course of business or financial affairs. Include both outright transfers and transfers made as security. Do not include gifts or transfers previously listed on this statement.

☐ None.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

	Who received transfer? Address	Description of property transferred or payments received or debts paid in exchange	Date transfer was made	Total amount or value
13.1	Highland Select Equity Fund, L.P. 300 Crescent Ct. Dallas, TX 75201	Transfer of 888,731 shares of public security in exchange for LP interest.	12/26/2018	\$19,632,067.79
	Relationship to debtor Fund managed by the debtor.			
13.2	Highland Select Equity Fund, L.P. 300 Crescent Ct. Dallas, TX 75201	Transfer of 214,000 shares of public security in exchange for LP interest.	3/12/2018	\$6,385,760.00
	Relationship to debtor Fund managed by the debtor			
13.3	Highland Select Equity Fund, L.P. 300 Crescent Ct. Suite 700 Dallas, TX 75201	Transfer of 250,000 shares of public security for LP interest	7/23/2019	\$10,297,500.00
	Relationship to debtor Fund managed by the debtor			

Part 7: Previous Locations**14. Previous addresses**

List all previous addresses used by the debtor within 3 years before filing this case and the dates the addresses were used.

☐ Does not apply

	Address	Dates of occupancy From-To
14.1.	Parkway Bent Tree 17130 Dallas Parkway Suite 230 Dallas, TX 75248	10/16/2016 – 8/30/2018
14.2.	2200 Ross Avenue Suite 4700E Storage Site Dallas, TX 75201	10/16/2016 – 12/31/2018

Part 8: Health Care Bankruptcies**15. Health Care bankruptcies**

Is the debtor primarily engaged in offering services and facilities for:

- diagnosing or treating injury, deformity, or disease, or
- providing any surgical, psychiatric, drug treatment, or obstetric care?

- ☒ No. Go to Part 9.
- ☐ Yes. Fill in the information below.

Facility name and address	Nature of the business operation, including type of services the debtor provides	If debtor provides meals and housing, number of patients in debtor's care
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Debtor Highland Capital Management, L.P.Case number (if known) 19-34054-SGJ**Part 9: Personally Identifiable Information****16. Does the debtor collect and retain personally identifiable information of customers?**

- ☐ No.
- ☒ Yes. State the nature of the information collected and retained.

Debtor has information including SS#, tax ID, mailing address, email address, and limited KYC for fund investors.

Does the debtor have a privacy policy about that information?

- ☐ No
- ☒ Yes

17. Within 6 years before filing this case, have any employees of the debtor been participants in any ERISA, 401(k), 403(b), or other pension or profit-sharing plan made available by the debtor as an employee benefit?

- ☐ No. Go to Part 10.
- ☒ Yes. Does the debtor serve as plan administrator?

☐ No Go to Part 10.

☒ Yes. Fill in below:

Name of plan

Highland 401(K) Plan

Employer identification number of the plan

EIN: **75-2716725**

Has the plan been terminated?

- ☒ No
- ☐ Yes

☐ No Go to Part 10.

☒ Yes. Fill in below:

Name of plan

Highland Capital Management, L.P. Retirement Plan and Trust (Defined Benefit Plan)

Employer identification number of the plan

EIN: **75-2716725**

Has the plan been terminated?

- ☒ No
- ☐ Yes

Part 10: Certain Financial Accounts, Safe Deposit Boxes, and Storage Units**18. Closed financial accounts**

Within 1 year before filing this case, were any financial accounts or instruments held in the debtor's name, or for the debtor's benefit, closed, sold, moved, or transferred?

Include checking, savings, money market, or other financial accounts; certificates of deposit; and shares in banks, credit unions, brokerage houses, cooperatives, associations, and other financial institutions.

- ☒ None

Financial Institution name and Address	Last 4 digits of account number	Type of account or instrument	Date account was closed, sold, moved, or transferred	Last balance before closing or transfer
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19. Safe deposit boxes

List any safe deposit box or other depository for securities, cash, or other valuables the debtor now has or did have within 1 year before filing this case.

- ☒ None

Depository institution name and address	Names of anyone with access to it Address	Description of the contents	Do you still have it?
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20. Off-premises storage

List any property kept in storage units or warehouses within 1 year before filing this case. Do not include facilities that are in a part of a building in which the debtor does business.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None

Facility name and address	Names of anyone with access to it	Description of the contents	Do you still have it?
Iron Mountain PO BOX 915004 Dallas, TX 75391	Employee has login access to request documents.	Firm-wide documents sent off-site to retain documents per the firm's retention policy.	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Natural Disasters Site 900 Venture Dr. Allen, TX 75013	Highland Capital Management IT Department	Primary Data Center - Storage	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes
Natural Disasters Site 3010 Waterview Parkway Richardson, TX 75080	Highland Capital Management IT Department	Natural Disasters Site - Storage	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes

Part 11: Property the Debtor Holds or Controls That the Debtor Does Not Own**21. Property held for another**

List any property that the debtor holds or controls that another entity owns. Include any property borrowed from, being stored for, or held in trust. Do not list leased or rented property.

☐ None

Owner's name and address	Location of the property	Describe the property	Value
James Dondero	300 Crescent Court Suite 700 Dallas, TX 75201	Artwork	Unknown

Part 12: Details About Environment Information

For the purpose of Part 12, the following definitions apply:

Environmental law means any statute or governmental regulation that concerns pollution, contamination, or hazardous material, regardless of the medium affected (air, land, water, or any other medium).

Site means any location, facility, or property, including disposal sites, that the debtor now owns, operates, or utilizes or that the debtor formerly owned, operated, or utilized.

Hazardous material means anything that an environmental law defines as hazardous or toxic, or describes as a pollutant, contaminant, or a similarly harmful substance.

Report all notices, releases, and proceedings known, regardless of when they occurred.

22. Has the debtor been a party in any judicial or administrative proceeding under any environmental law? Include settlements and orders.

- ☒ No.
☐ Yes. Provide details below.

Case title Case number	Court or agency name and address	Nature of the case	Status of case
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23. Has any governmental unit otherwise notified the debtor that the debtor may be liable or potentially liable under or in violation of an environmental law?

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
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24. Has the debtor notified any governmental unit of any release of hazardous material?

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

- ☒ No.
☐ Yes. Provide details below.

Site name and address	Governmental unit name and address	Environmental law, if known	Date of notice
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Part 13: Details About the Debtor's Business or Connections to Any Business**25. Other businesses in which the debtor has or has had an interest**

List any business for which the debtor was an owner, partner, member, or otherwise a person in control within 6 years before filing this case. Include this information even if already listed in the Schedules.

☐ None

Business name address	Describe the nature of the business	Employer Identification number Do not include Social Security number or ITIN.	Dates business existed EIN: From-To
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25.1. **Exhibit F**

26. Books, records, and financial statements

26a. List all accountants and bookkeepers who maintained the debtor's books and records within 2 years before filing this case.

☐ None

Name and address	Date of service From-To
26a.1. Frank Waterhouse 300 Crescent Court Suite 700 Dallas, TX 75201	10/23/06 - Current
26a.2. David Klos 300 Crescent Court Suite 700 Dallas, TX 75201	03/30/09 - Current
26a.3. Kristin Hendrix 300 Crescent Court Suite 700 Dallas, TX 75201	12/16/04 - Current
26a.4. Sean Fox 300 Crescent Court Suite 700 Dallas, TX 75201	06/25/13 - Current
26a.5. Drew Wilson 300 Crescent Court Suite 700 Dallas, TX 75201	02/06/12 - 09/14/18
26a.6. Hayley Eliason 300 Crescent Court Suite 700 Dallas, TX 75201	11/26/18 - Current
26a.7. Blair Roeber 300 Crescent Court Suite 700 Dallas, TX 75201	09/01/15 - Current

26b. List all firms or individuals who have audited, compiled, or reviewed debtor's books of account and records or prepared a financial statement within 2 years before filing this case.

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**☐ None

Name and address		Date of service From-To
26b.1.	PricewaterhouseCoopers LLP 2121 N Pearl St Dallas, TX 75201	2003 - Current

26c. List all firms or individuals who were in possession of the debtor's books of account and records when this case is filed.

☐ None

Name and address		If any books of account and records are unavailable, explain why
26c.1.	Boyd Gosserand 300 Crescent Ct. St 700 Dallas, TX 75201	
26c.2.	Deloitte - Tax PO Box 844736 Dallas, TX 75284	
26c.3.	Centroid -Accounting Software Consultant 6860 Dallas Pkwy Suite 560 Dallas, TX 75204	
26c.4.	Oracle - Accounting Software PO Box 203448 Dallas, TX 75320	
26c.5.	Wolters Kluwer - Tax PO Box 71882 Chicago, IL 60694	

26d. List all financial institutions, creditors, and other parties, including mercantile and trade agencies, to whom the debtor issued a financial statement within 2 years before filing this case.

☐ None

Name and address	
26d.1.	AgeeFisherBarrett, LLC 750 Hammond Dr BLDG 17 Atlanta, GA 30328
26d.2.	Bowman Law LLC 840 Tom Wheeler Lane Mc Ewen, TN 37101
26d.3.	CBIZ Valuation Group, Inc. 3030 LBJ Freeway, Ste 1650 Dallas, TX 75234
26d.4.	Cole Schotz Court Plaza North 25 Main Street, PO Box 800 Hackensack, NJ 07602
26d.5.	Colorado FSC 188 Inverness Drive West Ste. 100 Centennial, CO 80112

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****Name and address**

- 26d.6. **Concordeis**
1120 East Long Lake Road
Ste 207
Troy, MI 48085
-
- 26d.7. **Courtland T Group**
PO Box 11929
Newport Beach, CA 92658
-
- 26d.8. **Crown Capital Securities**
725 Town & Country Rd
Ste 530
Orange, CA 92868
-
- 26d.9. **Deloitte Tax LLP**
PO Box 844736
Dallas, TX 75284
-
- 26d.10. **DFPG Investments, Inc.**
9017 S. Riverside Dr.
Ste 210
Sandy, UT 84070
-
- 26d.11. **Discipline Advisors**
14135 G-100 Midway Rd.
Dallas, TX 75244
-
- 26d.12. **Development Specialists, Inc.**
10 S. LaSalle St.
Chicago, IL 60603
-
- 26d.13. **Emerson Equity**
155 Bovet Rd. #725
San Mateo, CA 94402
-
- 26d.14. **Frontier Bank**
5100 S I-35 Service Rd.
Oklahoma City, OK 73129
-
- 26d.15. **Grant Thornton LLP**
33570 Treasury Center
Chicago, IL 60694
-
- 26d.16. **Great Southern Bank**
8201 Preston Road
Suite 305
Dallas, TX 75225
-
- 26d.17. **Key Bank**
ATTN: KREC Loan Services
4910 Tiedman Road
3rd Floor
Cleveland, OH 44144
-
- 26d.18. **KPMG**
3 Chesnut Ridge Rd
Montvale, NJ 07645
-
- 26d.19. **Maples & Calder**
Ugland House PO Box 309
S. Church Street George Town
Grand Cayman, Cayman Island
-

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ****Name and address**

26d.20. **Payne and Smith**
5952 Royal Lane
Suite 158
Dallas, TX 75230

26d.21. **PWC**
PO Box 952282
Dallas, TX 75395

26d.22. **Squire Patton Boggs**
PO Box 643051
Cincinnati, OH 45264

26d.23. **WC Capital Partners**

26d.24. **Western International Securities, Inc.**
70 S. Lake Ave
Ste 700
Pasadena, CA 91101

26d.25. **Jean Francois Lemay**
52 Harold Street
Etobicoke M8Z 3R3

27. Inventories

Have any inventories of the debtor's property been taken within 2 years before filing this case?

- ☒ No
☐ Yes. Give the details about the two most recent inventories.

Name of the person who supervised the taking of the inventory

Date of inventory

The dollar amount and basis (cost, market, or other basis) of each inventory

28. List the debtor's officers, directors, managing members, general partners, members in control, controlling shareholders, or other people in control of the debtor at the time of the filing of this case.

Name	Address	Position and nature of any interest	% of interest, if any
Strand Advisors, Inc.	300 Crescent Ct, Ste 700 Dallas, TX 75201	General Partner	0.2508%
Name	Address	Position and nature of any interest	% of interest, if any
The Dugaboy Investment Trust	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.1866%
Name	Address	Position and nature of any interest	% of interest, if any
Mark Okada	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0487%
Name	Address	Position and nature of any interest	% of interest, if any
Mark and Pamela Okada Family Trust	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0098%
Name	Address	Position and nature of any interest	% of interest, if any
Mark and Pamela Okada Family Trust - #2	300 Crescent Ct, Ste 700 Dallas, TX 75201	Voting Limited Partner	0.0042%

Debtor **Highland Capital Management, L.P.**Case number (if known) **19-34054-SGJ**

Name	Address	Position and nature of any interest	% of interest, if any
Hunter Mountain Investment Trust	1100 N Market St Wilmington, DE 19890	Non-voting Limited Partner	99.50%
James Dondero	300 Crescent Ct, Ste 700 Dallas, TX 75201	Sole Shareholder of General Partner	100%
James Dondero	300 Crescent Ct, Ste 700 Dallas, TX 75201	President of General Partner	100% of the General Partner
Scott Ellington	300 Crescent Ct, Ste 700 Dallas, TX 75201	Secretary of General Partner	0.00%
Frank Waterhouse	300 Crescent Ct, Ste 700 Dallas, TX 75201	Treasurer of General Partner	0.00%

29. Within 1 year before the filing of this case, did the debtor have officers, directors, managing members, general partners, members in control of the debtor, or shareholders in control of the debtor who no longer hold these positions?

- ☐ No
☒ Yes. Identify below.

Name	Address	Position and nature of any interest	Period during which position or interest was held
Mark Okada	300 Crescent Ct, Ste 700 Dallas, TX 75201	Executive Vice President	Since inception to 9/30/2019
Trey Parker	300 Crescent Ct, Ste 700 Dallas, TX 75201	Assistant Secretary	8/21/2015 - 4/15/2019

30. Payments, distributions, or withdrawals credited or given to insiders

Within 1 year before filing this case, did the debtor provide an insider with value in any form, including salary, other compensation, draws, bonuses, loans, credits on loans, stock redemptions, and options exercised?

- ☐ No
☒ Yes. Identify below.

Name and address of recipient	Amount of money or description and value of property	Dates	Reason for providing the value
30.1 Exhibit G	8,722,414.86		
Relationship to debtor			

31. Within 6 years before filing this case, has the debtor been a member of any consolidated group for tax purposes?

Case 19-34054-sgj11 Doc 248 Filed 12/13/19 Entered 12/13/19 22:34:17 Page 13 of 34

Debtor Highland Capital Management, L.P.Case number (if known) 19-34054-SGJ

- ☒ No
☐ Yes. Identify below.

Name of the parent corporation

Employer Identification number of the parent corporation

32. Within 6 years before filing this case, has the debtor as an employer been responsible for contributing to a pension fund?

- ☒ No
☐ Yes. Identify below.

Name of the pension fund


Employer Identification number of the parent corporation

Part 14: Signature and Declaration

WARNING – Bankruptcy fraud is a serious crime. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$500,000 or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

I have examined the information in this *Statement of Financial Affairs* and any attachments and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 13, 2019

 Signature of individual signing on behalf of the debtor

Bradley Sharp

Printed name

Position or relationship to debtor Chief Restructuring OfficerAre additional pages to *Statement of Financial Affairs for Non-Individuals Filing for Bankruptcy* (Official Form 207) attached?

- ☐ No
☒ Yes

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit A - SOFA 1

Revenue Account	Year 2019 [1]		Year 2018		Year 2017	
Operating Revenue						
Management fees	\$	18,776,701.38	\$	35,264,426.88	\$	37,098,010.50
Shared services fees		6,002,769.24		9,187,200.55		9,445,221.98
Incentive fees		150,925.36		18,465.92		10,042,499.76
Interest and Investment Income		2,625,221.26		4,857,157.03		4,478,946.34
Miscellaneous Income		875,539.73		1,037,819.02		6,846,400.42
Total Operating Revenue	\$	28,431,156.97	\$	50,365,069.40	\$	67,911,079.00
Other Gain/(Loss)						
Interest income	\$	5,765,215.32	\$	7,503,164.74	\$	7,049,038.53
Other income/expense		838,191.46		658,514.02		3,723,833.60
Net realized gains on sales of investment transactions		3,959,534.93		13,396,884.40		6,494,555.20
Net change in unrealized gains/(losses) of investments		(6,692,741.56)		(56,529,224.39)		27,322,977.50
Net earnings/(losses) from equity method investees		121,440,340.48		(17,958,607.10)		3,111,185.38
Total Other Gain/(Loss)	\$	125,310,540.63	\$	(52,929,268.33)	\$	47,701,590.21

[1] Date ranges from 12/31/2018 to end of business 10/15/2019.

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit B - SOFA 3 [1]

Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Wilmer Cutler Pickering Hale and Dorr LLP	PO Box 7247-8760 Philadelphia PA 19170-8760	7/18/2019	\$ 20,275.50	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	7/18/2019	1,285.16	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	7/18/2019	990.00	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	7/19/2019	8,789.14	Professional Services
Highland Capital Management Korea Limited	(Seoul Finance Center, Taepyeongro-1-ga) 21F, 136, Sejong-daero, Jung-gu, Seoul, Korea	7/19/2019	630,000.00	Intercompany Funding
American Airlines	4255 Amon Carter Blvd MD 4106 Fort Worth TX 76155	7/22/2019	30,000.00	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	7/22/2019	28,122.16	Intercompany Funding
Meister Seelig & Fein LLP	125 Park Avenue 7th Floor New York NY 10017	7/22/2019	24,228.30	Professional Services
Flagship Cruises & Events	PO Box 120751 San Diego CA 92112	7/22/2019	16,103.26	Suppliers/Vendors
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	7/23/2019	146,190.02	Employee Benefits
Abrams & Bayliss LLP	20 Montchanin Road, Suite 200 Wilmington DE 19807	7/24/2019	53,237.45	Professional Services
Pricewaterhouse Coopers, LLP	8 Cross St. #17-00 PWC Singapore Building Singapore 048424	7/24/2019	14,461.66	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	7/25/2019	36,084.06	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	7/25/2019	6,754.00	Professional Services
Reid Collins & Tsai LLP	4301 Westbank Drive Building B Suite 230 Austin TX 78746	7/30/2019	82,831.45	Professional Services
Paxstone Capital LLP	483 Green Lanes, London, Greater London, N13 4BS	7/30/2019	46,063.81	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	7/31/2019	41,053.47	Employee Benefits
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	628,000.00	Intercompany Funding
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	7/31/2019	11,000.00	Professional Services
Professional Speaker	Koa Kai, LLC PO Box 232307 Leucadia CA 92023	7/31/2019	15,000.00	Suppliers/Vendors
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	8/1/2019	500,000.00	Investing
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	8/1/2019	39,586.07	Professional Services
Crescent TC Investors LP	200 Crescent Ct Suite 250 Dallas TX 75201	8/1/2019	155,361.38	Rent Payment
Brasilinvest Empreendimentos e Participacões S/A	Brazil	8/1/2019	10,000.00	Intercompany Funding
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	8/1/2019	68,002.70	Secured Loan Payment
Massand Capital, LLC	8140 Walnut Hill Lane, Suite 310 Dallas, TX 75231	8/1/2019	54,979.21	Professional Services
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	8/2/2019	11,959.71	Investing
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	8/2/2019	252,041.98	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	8/2/2019	259.05	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/2/2019	86,126.71	Employee Benefits
Abrams & Bayliss LLP	20 Montchanin Road, Suite 200 Wilmington DE 19807	8/7/2019	17,133.03	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	8/7/2019	441,000.00	Intercompany Funding
Status Labs.com	151 South 1st Suite 100 Austin TX 78704	8/7/2019	9,500.00	Professional Services
PetroCap Partners III, L.P.	3333 Lee Parkway Suite 750 Dallas TX 75219	8/7/2019	510,350.41	Investing
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	8/8/2019	115,843.80	Employee Benefits
AT&T	PO BOX 5019 CAROL STREAM IL 60197	8/8/2019	3,573.58	Professional Services
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	8/8/2019	12,056.49	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/8/2019	3,267.49	Suppliers/Vendors
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/9/2019	157,850.27	Employee Benefits
Liberty Life Assurance Company of Boston - Group Benefits	PO Box 2658 Carol Stream IL 60132-2658	8/9/2019	5,283.26	Employee Benefits
ICBI	London	8/13/2019	12,420.78	Professional Services
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/13/2019	155,000.00	Intercompany Funding
Connolly Gallagher LLP	1201 North Market Street 20th Floor Wilmington DE 19801	8/13/2019	18,295.70	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	8/14/2019	41,300.58	Employee Benefits
CBIZ Valuation Group, Inc.	3030 LBJ Freeway, Ste 1650 Dallas TX 75234	8/14/2019	15,000.00	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	8/14/2019	5,357.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	8/14/2019	174,256.34	Professional Services
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	8/15/2019	35,200.00	Professional Services
AT&T	PO Box 9005 Carol Stream IL 60197-9005	8/15/2019	927.16	Professional Services
ABM	PO Box 419860 Boston MA 02241-9860	8/15/2019	5,884.76	Suppliers/Vendors
LinkedIn Corporation	62228 Collections Center Drive Chicago IL 60693-0622	8/15/2019	19,719.93	Professional Services
PetroCap Partners II, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	1,244,586.77	Investing
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	8/15/2019	55,601.49	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	8/15/2019	137,396.00	Professional Services
MacroMavens, LLC	180 W. 20th Street Suite 1700 New York NY 10011	8/15/2019	18,816.84	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	8/15/2019	13,823.98	Suppliers/Vendors
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	8/15/2019	1,420.63	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	8/16/2019	36,135.64	Intercompany Funding
ROWLETT HILL, LLP	25 Highland Park Village, Suite 100-448 Dallas TX 75205	8/16/2019	30,187.50	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	8/16/2019	634.00	Suppliers/Vendors
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	8/16/2019	6,750.00	Professional Services
BCA Research Inc	1002 Sherbrooke St. W Suite 1600 Montreal Quebec H3A 3L6	8/16/2019	19,996.94	Professional Services
Willis of Texas, Inc.	PO Box 731739 Dallas TX 75373-1739	8/16/2019	5,754.18	Insurance
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/16/2019	89,965.15	Employee Benefits
Thomson West	PO Box 6292 Carol Stream IL 60197-6292	8/22/2019	21,339.33	Suppliers/Vendors
Duff & Phelps, LLC	DUFF & PHELPS, LLC 12595 Collection Center Drive Chicago IL 60693	8/23/2019	100,000.00	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	8/23/2019	50,934.56	Intercompany Funding
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	8/23/2019	97.96	Suppliers/Vendors
Concur Technologies, Inc.	62157 Collections Center Drive Chicago IL 60693	8/23/2019	4,104.85	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/23/2019	91,020.22	Employee Benefits
Thomson West	PO Box 6292 Carol Stream IL 60197-6292	8/23/2019	3,153.32	Suppliers/Vendors
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	8/23/2019	2,150.47	Suppliers/Vendors
Highland Capital Management New York	300 Crescent Court, Suite 700 Dallas, TX 75201	8/26/2019	150,000.00	Intercompany Funding
TW Telecom Holdings, Inc	PO Box 910182 Denver CO 80291-0182	8/26/2019	8,657.28	Professional Services

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit B - SOFA 3 [1]

Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
TW Telecom Holdings, Ilc	PO Box 910182 Denver CO 80291-0182	8/26/2019	9,065.13	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	8/27/2019	300,000.00	Intercompany Funding
Acis Capital Management	Attn: Rakhee V. Patel, Winstead PC 500 Winstead Building Dallas TX 75201	8/27/2019	12,249.65	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/27/2019	2,608.49	Suppliers/Vendors
Greenwood Office Outfitters	2951 Suffolk Drive Suite 640 Fort Worth TX 76133-1149	8/28/2019	12,877.82	Suppliers/Vendors
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	8/29/2019	95,443.51	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	8/29/2019	118,192.57	Employee Benefits
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	75,000.00	Intercompany Funding
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	55,000.00	Intercompany Funding
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	8/29/2019	697.89	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	8/29/2019	14,857.95	Professional Services
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	111,212.19	Professional Services
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	8/30/2019	11,000.00	Professional Services
Brasilinvest Empreendimentos e Participações S/A	Brazil	9/3/2019	10,000.00	Intercompany Funding
Crescent TC Investors LP	PO Box 841772 Dallas TX 75284-1772	9/3/2019	156,958.51	Rent Payment
AT&T	PO Box 9005 Carol Stream IL 60197-9005	9/3/2019	5,690.12	Professional Services
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	9/3/2019	404,238.30	Secured Loan Payment
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/3/2019	259.77	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/3/2019	295.76	Professional Services
Willis of Texas, Inc.	Dallas/Ft. Worth Division PO Box 730310 Dallas TX 75373-0310	9/3/2019	21,133.38	Insurance
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	9/4/2019	500,000.00	Investing
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/4/2019	500,000.00	Intercompany Funding
Consultant	2620 White Rock Rd. Dallas TX 75214	9/4/2019	6,451.50	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	9/5/2019	18,042.03	Professional Services
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/5/2019	113,788.36	Employee Benefits
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	9/5/2019	11,286.83	Investing
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/5/2019	858,220.29	Employee Benefits
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/5/2019	854,278.60	Employee Benefits
Dow Jones & Company, Inc.	WALL ST JRNL OR BARRONS PO Box 4137 New York NY 10261-4137	9/5/2019	16,621.23	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/5/2019	3,374.19	Suppliers/Vendors
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	9/5/2019	35,200.00	Professional Services
Las Vegas Flamingo Holdco, LLC	Collections Account TEXAS	9/5/2019	46,536.83	Intercompany Funding
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	9/5/2019	15,518.67	Suppliers/Vendors
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/6/2019	3,573.58	Professional Services
TW Telecom Holdings, Ilc	PO Box 910182 Denver CO 80291-0182	9/9/2019	9,138.32	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/9/2019	142,884.07	Employee Benefits
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/11/2019	40,000.00	Intercompany Funding
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/12/2019	37,839.05	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/12/2019	59,111.49	Employee Benefits
Loews Coronado Bay Resort	4000 Coronado Bay Road Coronado CA 92118	9/12/2019	77,340.18	Suppliers/Vendors
Harbor Yacht Clubs, LLC	1880 Harbor Island Drive San Diego CA 92101	9/12/2019	6,440.00	Suppliers/Vendors
NYSE MARKET, INC	Box #223695 Pittsburgh PA 15251-2695	9/13/2019	8,857.74	Professional Services
TRICOR BUSINESS OUTSOURCING	80 Robinson Rd, Singapore 068898	9/13/2019	35,221.80	Intercompany Funding
Markit North America Inc.	620 8th Ave 35th floor New York NY 10018	9/13/2019	91,676.00	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/13/2019	7,387.23	Suppliers/Vendors
BDO USA, LLP	700 North Pearl Suite 2000 Dallas TX 75201	9/13/2019	8,700.00	Professional Services
ABM	PO Box 419860 Boston MA 02241-9860	9/13/2019	5,884.76	Suppliers/Vendors
Concur Technologies, Inc.	62157 Collections Center Drive Chicago IL 60693	9/13/2019	8,187.05	Professional Services
Willis of Texas, Inc.	PO Box 731739 Dallas TX 75373-1739	9/13/2019	5,754.18	Insurance
Reorg Research, Inc.	1140 Broadway Ste 201 New York NY 10001	9/13/2019	93,123.35	Professional Services
Sage Search Partners	3811 Turtle Creek Blvd Suite 850 Dallas TX 75219	9/13/2019	20,000.00	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	9/16/2019	927.16	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/16/2019	200,000.00	Professional Services
Lynn Pinker Cox & Hurst, L.L.P.	2100 Ross Ave Suite 2700 Dallas TX 75201	9/17/2019	185,576.00	Professional Services
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	9/17/2019	12,056.49	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	9/17/2019	327.61	Suppliers/Vendors
Platinum Parking	300 Crescent Court, Suite 700 Dallas, TX 75201	9/17/2019	15,210.80	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	9/19/2019	1,769.17	Professional Services
ROWLETT HILL, LLP	25 HIGHLAND PARK VILLAGE STE 100-448 DALLAS TX 75205	9/19/2019	23,718.75	Professional Services
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/19/2019	500,000.00	Affiliate Loan
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	9/19/2019	185,063.83	Professional Services
Greyline Partners, LLC	P.O. Box 733976 Dallas TX 75373-3976	9/19/2019	11,250.00	Professional Services
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/20/2019	77,274.56	Employee Benefits
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	9/20/2019	67,658.40	Employee Benefits
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/23/2019	1,000,000.00	Affiliate Loan
Attia Medical, PC	5820 Oberlin Dr. Suite 205 San Diego CA 92121	9/23/2019	12,500.00	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/23/2019	200,000.00	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	9/24/2019	3,059.50	Suppliers/Vendors
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	300,000.00	Intercompany Funding
Consultant	2620 White Rock Rd. Dallas TX 75214	9/25/2019	8,109.75	Professional Services
Cole Schotz	Court Plaza North 25 Main Street Hackensack NJ 07602-0800	9/25/2019	100,000.00	Professional Services
Affiliate Loan	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	900,000.00	Affiliate Loan
S&P Global Market Intelligence	33356 Collection Center Drive Chicago IL 60693-0333	9/25/2019	368,894.61	Professional Services

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit B - SOFA 3 [1]

Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	9/25/2019	1,325.29	Professional Services
Harbor Yacht Clubs, LLC	1880 Harbor Island Drive San Diego CA 92101	9/25/2019	538.75	Suppliers/Vendors
ICE Data Pricing & Reference Data, LLC	PO Box 98616 Chicago IL 60693	9/25/2019	8,819.61	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	9/26/2019	35,354.55	Employee Benefits
Duff & Phelps, LLC	2397 Paysphere Circle Chicago IL 60674	9/30/2019	100,000.00	Professional Services
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	200,000.00	Intercompany Funding
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	9/30/2019	98,707.96	Secured Loan Payment
Arris Western Corp.	718 N Buckner #316 Dallas TX 75218	9/30/2019	11,000.00	Professional Services
Professional Speaker	Koa Kai, LLC PO Box 232307 Leucadia CA 92023	9/30/2019	15,000.00	Suppliers/Vendors
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	105,000.00	Intercompany Funding
Attia Medical, PC	5820 Oberlin Dr. Suite 205 San Diego CA 92121	9/30/2019	12,500.00	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	9/30/2019	200,000.00	Professional Services
AT&T MOBILITY	PO BOX 6463 CAROL STREAM IL 60197-6463	10/1/2019	-	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/1/2019	13,059.43	Bonus
Crescent TC Investors LP	200 Crescent Ct Suite 250 Dallas TX 75201	10/1/2019	192,588.09	Rent Payment
Frontier State Bank	5100 S I-35 Service Rd, Oklahoma City, OK 73129	10/1/2019	128,793.00	Secured Loan Payment
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	10/2/2019	113,095.54	Professional Services
Consultant	300 Crescent Court, Suite 700 Dallas, TX 75201	10/2/2019	28,821.81	Professional Services
Pachulski Stang Ziehl & Jones LLP	10100 Santa Monica Blvd. 13th Floor Los Angeles CA 90067	10/2/2019	500,000.00	Professional Services
HIGHLAND CAPITAL MANAGEMENT, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	114,381.18	Employee Benefits
OKADA INSURANCE RABBI TRUST	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	14,875.00	Insurance
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/3/2019	309.51	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	113,104.52	Employee Reimbursement
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/4/2019	18,042.03	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/4/2019	18,042.03	Professional Services
TW Telecom Holdings, Inc	PO Box 910182 Denver CO 80291-0182	10/4/2019	7,710.33	Professional Services
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	10/4/2019	23,277.86	Suppliers/Vendors
CDW Direct	PO BOX 75723 CHICAGO IL 60675-5723	10/4/2019	23,788.47	Suppliers/Vendors
HIGHLAND CREDIT OPPORTUNITIES FUND	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	500,000.00	Intercompany Funding
AT&T	PO Box 9005 Carol Stream IL 60197-9005	10/4/2019	2,845.06	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/4/2019	3,573.58	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/4/2019	146.78	Professional Services
Willis of Texas, Inc.	Dallas/Ft. Worth Division PO Box 730310 Dallas TX 75373-0310	10/4/2019	5,754.18	Insurance
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	10/4/2019	109,241.27	Employee Benefits
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/4/2019	55,667.91	Professional Services
Ipreo Data Inc.	421 Fayetteville Street Suite 900 Raleigh NC 27601	10/4/2019	9,500.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	10/4/2019	182,790.68	Professional Services
Hedgeye Risk Mgmt, LLC	1 High Ridge Park 3rd Floor Stamford CT 06905	10/4/2019	25,265.10	Professional Services
Spin-Off Advisors, LLC	1327 W. Washington Blvd Ste 4-G Chicago IL 60607	10/4/2019	15,000.00	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	10/4/2019	14,343.81	Suppliers/Vendors
Flexential Colorado Corp.	PO Box 732368 Dallas TX 75373-2368	10/4/2019	24,031.79	Professional Services
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	75,000.00	Intercompany Funding
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	10/4/2019	200,000.00	Professional Services
Siepe Software, LLC	5440 Harvest Hill Rd Suite 100, Dallas, TX 75230	10/7/2019	18,042.03	Professional Services
Pricewaterhouse Coopers, LLP	PO BOX 952282 DALLAS TX 75395-2282	10/7/2019	24,000.00	Professional Services
LAFFER ASSOCIATES	103 Murphy Court NASHVILLE TN 37203	10/7/2019	28,188.37	Professional Services
MARKIT WSO CORPORATION	Three Lincoln Centre 5430 LBJ Frwy; 5Te 800 DALLAS TX 75240	10/7/2019	27,213.92	Professional Services
Strategas Securities LLC	52 Vanderbilt Ave 8th Fl New York NY 10017	10/7/2019	27,195.87	Professional Services
Bloomberg Finance LP	PO Box 416604 Boston MA 02241-6604	10/7/2019	100,000.00	Professional Services
Intex Solutions, Inc.	Accounts Receivable 110 A St Needham MA 02494-2807	10/7/2019	35,200.00	Professional Services
BCA Research Inc	1002 Sherbrooke St. W Suite 1600 Montreal Quebec H3A 3L6	10/7/2019	18,294.21	Professional Services
Consultant	2620 White Rock Rd. Dallas TX 75214	10/7/2019	5,274.50	Professional Services
Employee	300 Crescent Court, Suite 700 Dallas, TX 75201	10/7/2019	43,910.97	Employee Reimbursement
Verity Group	PO Box 940361 Plano TX 75094-0361	10/7/2019	8,940.84	Suppliers/Vendors
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	10/7/2019	30,017.35	Suppliers/Vendors
ABM	PO Box 419860 Boston MA 02241-9860	10/7/2019	5,884.76	Suppliers/Vendors
Greenwood Office Outfitters	2951 Suffolk Drive Suite 640 Fort Worth TX 76133-1149	10/7/2019	4,628.62	Suppliers/Vendors
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/7/2019	113,092.79	Professional Services
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/7/2019	112,000.00	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/7/2019	142,205.00	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/7/2019	104,905.00	Professional Services
Siepe Services, LLC	5440 Harvest Hill Road Suite 100 Dallas TX 75230	10/7/2019	185,000.00	Professional Services
GRUBHUB for Work	PO Box 748570 Los Angeles CA 90074-8570	10/7/2019	5,556.50	Suppliers/Vendors
ValueScope, Inc.	1400 Thetford Ct. Southlake TX 76092	10/7/2019	25,000.00	Professional Services
Development Specialists, Inc.	333 South Grand Avenue Suite 4070 Los Angeles CA 90071-1544	10/7/2019	250,000.00	Professional Services
Bragalone Conroy PC	Chase Tower 2200 Ross Avenue Dallas TX 75201-7924	10/7/2019	10,000.00	Professional Services
Kurtzman Carson Consultants LLC	Dept CH 16639 Palatine IL 60055-6639	10/7/2019	50,000.00	Professional Services
Hunton Andrews Kurth, LLP	1445 Ross Avenue Suite 3700 Dallas TX 75202-2799	10/7/2019	156,996.86	Professional Services
Liberty Life Assurance Company of Boston - Group Benefits	PO Box 2658 Carol Stream IL 60132-2658	10/7/2019	15,928.25	Employee Benefits
ICE Data Pricing & Reference Data, LLC	PO Box 98616 Chicago IL 60693	10/7/2019	5,879.74	Professional Services
Refinitiv US LLC	3 Times Square New York NY 10036	10/7/2019	12,823.98	Professional Services
Deloitte Tax LLP	PO Box 844736 Dallas TX 75284-4736	10/8/2019	128,557.00	Professional Services
AT&T	PO BOX 5019 CAROL STREAM IL 60197	10/10/2019	3,573.58	Professional Services

Highland Capital Management LP

Case # 19-34054-SGJ

Exhibit B - SOFA 3 [1]

Trading Partner Name	Trading Partner Address	Payment Date	Payment Amount	Reason for Transfer
Blue Cross Blue Shield of Texas	PO Box 731428 Dallas TX 75373-1428	10/10/2019	161,497.04	Employee Benefits
Cole Schotz	Court Plaza North 25 Main Street Hackensack NJ 07602-0800	10/10/2019	34,894.42	Professional Services
Houlihan Lokey	10250 Constellation Blvd, 5th Floor Attn: Accounts Receivable Los Angeles CA 90067-6802	10/10/2019	1,092.79	Professional Services
Snell & Wilmer LLP	One Arizona Center 400 E. Van Buren, Suite 1900 Phoenix AZ 85004-2202	10/10/2019	19,119.65	Professional Services
DLA Piper LLP US	6225 Smith Avenue Baltimore MD 21209	10/10/2019	1,115,000.00	Professional Services
ASW Law Limited	Crawford House 50 Cedar Avenue Hamilton HM11	10/10/2019	10,845.00	Professional Services
Carey Olsen	PO Box 10008 Willow House Grand Cayman KY1-1001	10/10/2019	48,595.00	Professional Services
Canteen Vending Services	PO Box 417632 Boston MA 02241-7632	10/10/2019	8,656.51	Suppliers/Vendors
Platinum Parking	300 Crescent Court Level G1, LB#102 Dallas TX 75201	10/10/2019	33,007.19	Professional Services
Charles Schwab	PO Box 1270 Tulsa, OK 74101-1270	10/11/2019	34,454.43	Employee Benefits
Cole Schotz	Court Plaza North 25 Main Street, PO Box 800 Hackensack NJ 07602-0800	10/11/2019	25,000.00	Professional Services
Pershing LLC	One Pershing Plaza Attn: IBD - 15th Floor Jersey City NJ 07399	10/15/2019	17,745.66	Investing
CBIZ Valuation Group, Inc.	3030 LBJ Freeway, Ste 1650 Dallas TX 75234	10/15/2019	12,400.00	Professional Services
Status Labs.com	151 South 1st Suite 100 Austin TX 78704	10/15/2019	18,000.00	Professional Services
Discovery Benefits [2]	4321 20th Ave. S. Fargo, ND 58103	Various	36,473.83	FSA Transfers
Expense Reimbursements [3]	300 Crescent Court, Suite 700 Dallas, TX 75201	Various	557,471.14	Expense reimbursements
Total			\$ 23,255,006.86	

[1] Does not include activity in Jefferies Prime Broker account.

[2] Discovery benefits are the daily FSA amounts paid for healthcare related charges.

[3] Expense reimbursements are not tracked in The Debtor's accounting software at detail requested

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Acis Capital Management	Attn: Rakhee V. Patel, Winstead PC 500 Winstead Building Dallas TX 75201	8/27/2019	12,249.65
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	10/26/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	11/1/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	12/3/2018	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	1/2/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	1/25/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	2/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	3/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	4/3/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	5/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	6/3/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	7/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	8/1/2019	10,000.00
Brasilinvest Empreendimentos e Participacoes S/A	300 Crescent Court, Suite 700 Dallas, TX 75201	9/3/2019	10,000.00
Dondero Insurance Rabbi Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	1/2/2019	36,580.00
Dugaboy Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	9,246.96
Dugaboy Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	6,960.38
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/13/2019	155,000.00
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	75,000.00
Eagle Equity Advisors, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/11/2019	40,000.00
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	41.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	70.73
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/30/2018	13.96
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	50.74
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	26.84
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	56.68
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	58.06
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	183.46
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	18.89
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	28.88
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	105.11
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	23.70
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	34.79
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	110.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	31.76
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	43.23
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	20.56
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	87.13
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	38.96
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	19.48
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	45.08
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	66.22
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	10.82
Frank Waterhouse - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	115.75
Governance Re Ltd	Wellesley House; 2nd Floor 90 Pitts Bay Road Pembroke HM 08	6/14/2019	300,000.00
HCRE Partners, LLC	300 Crescent Court, Suite 700 Dallas, TX 75201	9/25/2019	900,000.00
Highland Capital Management Fund Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	5/2/2019	2,400,000.00
Highland Capital Management Fund Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	5/3/2019	5,000,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	12/6/2018	1,200,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	4/17/2019	1,100,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	7/8/2019	630,000.00
Highland Capital Management Korea	300 Crescent Court, Suite 700 Dallas, TX 75201	7/19/2019	630,000.00
Highland Capital Management Latin America	300 Crescent Court, Suite 700 Dallas, TX 75201	5/3/2019	1,350,000.00
Highland Capital Management Latin America	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	10,000.00

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Highland Capital Management Services	300 Crescent Court, Suite 700 Dallas, TX 75201	5/29/2019	400,000.00
Highland Capital Management Services	300 Crescent Court, Suite 700 Dallas, TX 75201	6/26/2019	150,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	10/26/2018	65,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	10/30/2018	5,864.10
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	11/13/2018	3,942.72
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	11/28/2018	3,848.70
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	12/12/2018	3,744.31
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	12/27/2018	4,176.47
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	1/11/2019	3,954.93
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	1/29/2019	4,703.71
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	2/5/2019	50,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	3/5/2019	150,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	3/26/2019	50,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	6/11/2019	55,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	7/1/2019	25,000.00
Highland Capital Of New York	300 Crescent Court, Suite 700 Dallas, TX 75201	8/26/2019	150,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	2/27/2019	100,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	25,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	4/3/2019	15,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	50,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	90,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	8/29/2019	55,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	105,000.00
Highland Latin America Consulting, LTD	300 Crescent Court, Suite 700 Dallas, TX 75201	10/4/2019	75,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	12/5/2018	171,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	4/18/2019	3,000,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/2/2019	100,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/14/2019	255,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/22/2019	1,500,000.00
Highland Select Equity Fund	300 Crescent Court, Suite 700 Dallas, TX 75201	5/30/2019	350,000.00
Hunter Mountain Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	4,930,722.50
Hunter Mountain Investment Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	3,711,456.47
James Dondero	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	3,750,000.00
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	8,986.25
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	65,078.25
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	115,481.36
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	548.19
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	96,786.37
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	38,628.04
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	42,434.77
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	19,062.59
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	50,771.13
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	21,934.60
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	60,190.72
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	7,164.24
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	89,256.54
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	38,804.42
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	82,710.42
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	7,604.98
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	47,005.97
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	748.07
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	85,058.51
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	12,713.97
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	56,762.57

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	24,497.96
James Dondero - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	32,977.48
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	1,341.26
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	164.01
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/30/2018	61.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	2,378.81
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	285.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/28/2019	876.87
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	267.99
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	112.22
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	160.50
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	144.02
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	688.48
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	48.54
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	74.95
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/31/2019	153.81
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	217.72
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	3,615.11
Lee Parker - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	5,644.08
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	12/7/2018	6,780.65
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	12/12/2018	17,215.19
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	1/4/2019	95,798.38
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	1/10/2019	2,600.00
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	3/7/2019	2,453.66
Maples & Calder	Ugland House Po Box 309Gt; S Church St George Town Grand Cayman	9/16/2019	5,218.40
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,600.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/11	3,500.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	8,876.22

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	8,876.22
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2018/12	2,453.66
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/01	1,300.00
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/04	3,450.68
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/04	3,450.68
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
MaplesFS Service Company Limited	PO Box 1093 Boundary Hall Grand Cayman KY1-1102	2019/05	1,777.77
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	68.12
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	2,793.63
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	28,862.62
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	1,174.32
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/15/2019	740.40
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	10,809.37
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	4,485.01
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	3,584.31
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/14/2019	6,121.00
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	2,008.15
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/15/2019	139.27
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	675.80
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/13/2019	10,961.53
Mark Okada - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	7,312.69
NexPoint Advisors, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/19/2019	500,000.00
NexPoint Advisors, LP	300 Crescent Court, Suite 700 Dallas, TX 75201	9/23/2019	1,000,000.00
Okada Insurance Rabbi Trust	300 Crescent Court, Suite 700 Dallas, TX 75201	10/3/2019	14,875.00
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	11/15/2018	1,295.64
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/31/2018	5,149.90
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	2/15/2019	102.32
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	3/29/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	364.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	8/30/2019	205,787.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	59.95
Scott Ellington - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	113,104.52
Strand Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	12/19/2018	12,423.44
Strand Advisors	300 Crescent Court, Suite 700 Dallas, TX 75201	3/28/2019	9,351.38
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/31/2018	419.21
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	12/14/2018	5,024.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	1/31/2019	355.30
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/15/2019	529.77
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	4/30/2019	4,185.33
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/15/2019	589.52
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	5/31/2019	480.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	6/28/2019	1,591.54

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit C - SOFA #4

<u>Trading Partner</u>	<u>Trading Partner Address</u>	<u>Payment Date</u>	<u>Payment Amount</u>
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	7/15/2019	125.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	9/30/2019	28.00
Thomas Surgent - Expense Reimbursement	300 Crescent Court, Suite 700 Dallas, TX 75201	10/15/2019	2,232.89
Total			<u>36,608,252.91</u>

Refer to SOFA 30 and Exhibit G for other transfers.

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit D - SOFA 7

Case Title	Case Number	Nature of Case	Court Name	Court Address	Status of case
Duff & Phelps, LLC v. Highland Capital Management, L.P. Index No. 653813/2019		Claim for breach of contract and unjust enrichment for failure to pay pursuant to a Letter of Engagement and accompanying Terms and Conditions.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Concluded
Hamilton Partners, L.P. v. Highland Capital Management, L.P. and Joseph Furlong	Cause No. 6547	Allegedly improper restructuring of American Home Patient	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Concluded
In re: Acis Capital Management, L.P. (Case No. 18-30264-SGJ-11), Acis Capital Management GP, LLC (Case No. 18-30265-SGJ-11) as Debtors. Robin Phelan, Chapter 11 Trustee v. Highland Capital Management, L.P., Highland CLO Funding, Ltd. f/k/a Acis Loan Funding, Ltd., CLO Holdco, Ltd., Neutra, Ltd., Acis CLO 2014-3 Ltd., Acis CLO 2014-4 Ltd., Acis CLO 2014-5 Ltd., Acis CLO 2015-6 Ltd., Acis CLO 2014-3 LLC, Acis CLO 2014-4 LLC, Acis CLO 2014-5 LLC, and Acis CLO 2015-6 LLC	Case No. 18-03212-SGJ	Chapter 11 Trustee, on behalf of Debtors, claimed violation of TRO, preliminary injunction, and fraudulent conveyance.	United State Bankruptcy Court for the Northern District of Texas, Dallas Division	George Mahon Federal Building 1205 Texas Ave., Rm 306 Lubbock, TX 79401-4002	Pending
McKool Smith P.C. vs. Highland Capital Management, L.P. JAMS No.: 1310024517		Claim for breach of contract pursuant to Crusader Retention Agreement, Terry Retention Agreement, UBS Retention Agreement, and payment plan.	N/A	N/A	Pending
NWCC, LLC v. Highland CLO Management, LLC; Highland Capital Management, L.P.; Acis CLO 2014-3 Ltd.; Highland CLO 2014-3R Ltd.; Highland CLO 2014-3R LLC; Highland HCF Advisor, Ltd., as Trustee for Highland CLO Trust; Highland CLO Management Holdings, L.P.; Highland CLO Management GP, LLC; and Highland HCF Advisor, Ltd.	Case No. 654195/2018	Claim for breach of contract for failure to pay pursuant to Master Repurchase Agreement.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Pending
Patrick Daugherty v. Highland Capital Management, L.P., Highland Employee Retention Assets, LLC, Highland ERA Management, LLC, and James Dondero	No. 2017-0488-SG	Claim for collection of judgment against Highland Employee Retention Assets, LLC ("HERA") and allegation of improper transfer of assets from HERA to other Defendants	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Pending
Redeemer Committee of the Highland Crusader Fund (acting through its members, (1) Grosvenor Capital Management, L.P., (2) FRM Investment Management Limited, (3) Concord Management, LLC, (4) Baylor University, (5) FIX Asset Management, (6) The United States Army Air Force Exchange Services) vs. Highland Capital Management, L.P.	Cause 2019 No. 332	Motion to enforce Crusader Arbitration Award	Supreme Court of Bermuda	2nd floor, Government Administration Building 30 Parliament Street Hamilton HM12 Bermuda	Pending
Redeemer Committee of the Highland Crusader Fund (acting through its members, (1) Grosvenor Capital Management, L.P., (2) FRM Investment Management Limited, (3) Concord Management, LLC, (4) Baylor University, (5) FIX Asset Management, (6) The United States Army Air Force Exchange Services) vs. Highland Capital Management, L.P.	Cause 153 of 2019	Motion to enforce Crusader Arbitration Award	Grant Court of the Cayman Islands Financial Services Division	P.O. Box 495 Grand Cayman KY1-1106 Cayman Islands	Pending
Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.	No. 01-16-002-6927	Injunctive relief and damages sought related to wind down of legacy hedge fund from the 2008 financial crisis.	N/A	N/A	Concluded
Redeemer Committee of the Highland Crusader Fund v. Highland Capital Management, L.P.	No. 12533-VCG	Injunctive relief and declaratory judgment related to wind down of legacy hedge fund from the 2008 financial crisis.	Court of Chancery of the State of Delaware	34 The Circle Georgetown, DE 19947	Pending
UBS Securities LLC and UBS AG, London Branch v. Highland Capital Management, L.P., Highland Special Opportunities Holding Company, Highland CDO Opportunity Master Fund, L.P., Highland Financial Partners, L.P., Highland Credit Strategies Fund, Highland Crusader Offshore Partners, L.P., Highland Credit Opportunities CDO, L.P. and Strand Advisors, Inc.	Case No. 650097/2009	Plaintiff alleges that HCMLP engaged in fraudulent transfers and breached its duty of good faith in fair dealing in managing the obligations of its funds.	Supreme Court of the State of New York, County of New York	60 Centre St, New York, NY 10007	Pending
Highland Capital Management, L.P. v. Joshua Terry	Case No. DC-16-11396	Employee Terry was terminated for cause. Highland filed suit for return of Highland's confidential information and other counterclaims. Terry has filed counterclaims for conversion and defamation.	62nd District Court of Dallas County, Texas	00 Commerce Street, 7th Floor New Tower, Dallas, TX 75202	Pending

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit E - SOFA #9

Vendor	Amount	Expense Type	Date
B&H Photo	\$ 7,000.00	Business Gifts	Feb 22, 2019
Competitive Cyclist	5,000.00	Business Gifts	Feb 22, 2019
REI	3,009.95	Business Gifts	Feb 22, 2019
The Family Place	4,500.00	Business Gifts	Jan 11, 2019
Neiman Marcus	10,000.00	Business Gifts	Jan 29, 2019
Nordstrom	9,000.00	Business Gifts	Jan 29, 2019
Neiman Marcus	2,800.00	Business Gifts	Aug 10, 2018
Barney's New York	3,015.00	Business Gifts	Dec 27, 2017
Etro Store	1,710.35	Business Gifts	Dec 27, 2017
Sutterfly	1,627.64	Business Gifts	Jun 26, 2019
B&H Video	5,015.00	Business Gifts	Oct 25, 2017
Competitive Cyclist	5,000.00	Business Gifts	Oct 25, 2017
Nordstrom	5,000.00	Business Gifts	Oct 25, 2017
REI	5,000.00	Business Gifts	Oct 25, 2017
JD	5,000.00	Business Gifts	Jan 29, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	7,508.95	Business Gifts	Dec 12, 2018
Dallas Childrens Advocacy	17,500.00	Charitable Contributions	Jan 11, 2019
Political Contribution	20,000.00	Charitable Contributions	May 13, 2019
Political Contribution	30,000.00	Charitable Contributions	May 29, 2019
NORTHPARK CENTER	1,230.00	Gift/Awards	Apr 26, 2019
Kroger	1,483.30	Gift/Awards	Apr 26, 2018
Total Wine	1,125.76	Gift/Awards	Feb 13, 2018
Costco	2,168.86	Gift/Awards	Feb 13, 2019
Apple	4,000.00	Gift/Awards	Feb 26, 2018
B&H Photo	3,000.00	Gift/Awards	Feb 26, 2018
Competitive Cyclist	5,000.00	Gift/Awards	Feb 26, 2018
Nordstrom	1,350.00	Gift/Awards	Feb 26, 2018
Nordstrom	4,650.00	Gift/Awards	Feb 26, 2018
Nordstrom	1,250.00	Gift/Awards	Feb 26, 2018
Nordstrom	3,750.00	Gift/Awards	Mar 13, 2019
Nordstrom	7,010.00	Gift/Awards	Mar 13, 2019
REI	4,009.95	Gift/Awards	Mar 13, 2019
Neiman Marcus	2,075.00	Gift/Awards	Mar 27, 2018
AMAZON.COM*MB5OG1ZC1AMZN.COM/BI 1T5SDTP0V6I MERCHA	1,000.00	Gift/Awards	Feb 13, 2019
AMERICAN AIRLINES XXXX-XXX-XXX XXXX0103 AA.COM	1,000.00	Gift/Awards	Feb 13, 2019
BABY.COM EGIFT CRD XXX-XXX-1977 9XXX9375PRC GIFT C	1,000.00	Gift/Awards	Feb 13, 2019
WALMART.COM XXX-XXX-6546 AR WMZVYLNOOYU RETAIL	1,000.00	Gift/Awards	Feb 13, 2019
AMAZON.COM*M01N33JX2AMZN.COM/BI 43WY9S9CUK8 MERCHA	1,000.00	Gift/Awards	Dec 12, 2018
AMAZON.COM*MX1474TL1AMZN.COM/BI 594WNOFOQ54 MERCHA	1,000.00	Gift/Awards	Dec 12, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	68,280.95	Gift/Awards	Dec 12, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX3699QOK GIFT C	1,000.00	Gift/Awards	Dec 12, 2018
AAA INNOVATIONS AAA NORWOOD NJ XXXXXX8353 NON-DUR	4,558.75	Gift/Awards	Jan 11, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,508.95	Gift/Awards	Jan 11, 2019
HOTELS.COM GIFT CARDXXX-XXX-197 9XXX8780BOK GIFT C	1,000.00	Gift/Awards	Jan 11, 2019
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX6040GOK GIFT C	1,000.00	Gift/Awards	Jan 11, 2019
AMEX HILTON GIFT CARXXX-XXX-058 XXXX4162 BOL X0285	5,008.95	Gift/Awards	Feb 13, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX2954P90 GIFT C	1,000.00	Gift/Awards	Nov 10, 2017
CS_*BABIESRUSGIFTCARXXX-XXX-197 4XXX6083G9J GIFT C	1,000.00	Gift/Awards	Dec 13, 2017
Four Seasons 8XX7828WILMINGTON XXXXXXXXXX XXXXXX3	5,014.19	Gift/Awards	Dec 13, 2017
RITZ CARLTON GIFT CAMIDVALE UT XXXXXXXXXX XXX-XXX-8	1,001.00	Gift/Awards	Dec 13, 2017
AMAZON.COM AMZN.COM/BILL WA 4HQ4J0AKNMQ MERCHANDIS	1,000.00	Gift/Awards	Jan 10, 2018
AMEX GIFT CARDS XXX-XXX-0582 NY OPWBXXX0386BOL XX2	7,008.95	Gift/Awards	Mar 13, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXX XXXXXX3	1,014.93	Gift/Awards	Mar 13, 2018

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit E - SOFA #9

Vendor	Amount	Expense Type	Date
AMEX GIFT CARDS XXX-XXX-0582 NY OPWBXXX3116BOL XX2	3,520.80	Gift/Awards	Apr 11, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXX3	1,014.93	Gift/Awards	Apr 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,010.95	Gift/Awards	May 10, 2018
AMAZON.COM AMZN.COM/BILL WA 16B3JYTOHX MERCHANDIS	1,000.00	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXX3	1,014.93	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXX3	5,014.93	Gift/Awards	Jun 12, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXX3	1,000.00	Gift/Awards	Jun 12, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX5955KHG GIFT C	1,000.00	Gift/Awards	Jun 12, 2018
AMAZON.COM AMZN.COM/BILL WA 4C5DKHDW6TK MERCHANDIS	1,000.00	Gift/Awards	Jul 11, 2018
AMAZON.COM AMZN.COM/BILL WA 5AK74J5T9LC MERCHANDIS	1,000.00	Gift/Awards	Jul 11, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX5284CIM GIFT C	1,000.00	Gift/Awards	Jul 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,001.00	Gift/Awards	Jul 11, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX6255NHS GIFT C	1,000.00	Gift/Awards	Jul 11, 2018
AMAZON.COM AMZN.COM/BILL WA 3NRIPE5LH2 MERCHANDIS	1,000.00	Gift/Awards	Aug 10, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,522.85	Gift/Awards	Aug 10, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX8611J4 GIFT C	1,000.00	Gift/Awards	Aug 10, 2018
HOTELS.COM GIFT CARDXXX-XXX-197 8XXX5959YIW GIFT C	1,000.00	Gift/Awards	Aug 10, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,001.00	Gift/Awards	Aug 10, 2018
AMAZON.COM*MT7OW87B1AMZN.COM/BI 1XJ571A2WYA MERCHA	1,000.00	Gift/Awards	Nov 13, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 9XXX5657XMX GIFT C	1,000.00	Gift/Awards	Nov 13, 2018
CS *HOTELS.COM GC XXX-XXX-1977 4XXX3604JRQ GIFT CA	1,000.00	Gift/Awards	Mar 13, 2019
HILTON GC XXX XXX-XXXX-XXX-XXX XX0847 GIFTCARDS F	1,008.95	Gift/Awards	Mar 13, 2019
HOTELS.COM GIFT CARDXXX-XXX-197 4XXX1517JRH GIFT C	1,000.00	Gift/Awards	Mar 13, 2019
AMAZON.COM*MW2NP75Y2AMZN.COM/BI 1ZRLAH1KV0Q MERCHA	1,000.00	Gift/Awards	May 13, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,515.95	Gift/Awards	May 13, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,520.85	Gift/Awards	Jun 12, 2019
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	3,515.95	Gift/Awards	Jul 11, 2019
ANSE CHASTANET - RESSOUFRIERE LC XXXXXXXX XXX-XX	5,000.00	Gift/Awards	Sep 11, 2018
Four Seasons 8XX7828WILMINGTON XXXXXXXXXXX XXXXX3	5,014.93	Gift/Awards	Sep 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,010.95	Gift/Awards	Sep 11, 2018
RITZ CARLTON GIFT CAMIDVALE UT XXXXXXXX XXX-XXX-8	1,010.95	Gift/Awards	Sep 11, 2018
WLLMS-SONMA CSTR GFTXXX-XXX-197 4XXX6218KG GIFT C	1,000.00	Gift/Awards	Sep 11, 2018
AMAZON.COM*MT5FG6LG0AMZN.COM/BI 2CWA16B0JP6 MERCHA	2,000.00	Gift/Awards	Oct 11, 2018
AMEXGIFTCARD.COM-BOLATLANTA GA XXXXXXXX XXX-XXX-86	7,529.80	Gift/Awards	Oct 11, 2018
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	5,000.00	Gift/Awards	Oct 4, 2019
Hotels.com	1,000.00	Gift/Awards	Jul 11, 2019
Buy Buy Baby	1,000.00	Gift/Awards	Aug 13, 2019
William Sonoma	1,000.00	Gift/Awards	Aug 13, 2019
Amazon.com	1,000.00	Gift/Awards	Sep 10, 2019
AMAZON.COM*MA02T1UW2AMZN.COM/BI 59I475TIIR3 MERCHA	1,000.00	Gift/Awards	Sep 10, 2019
CS *BUYBUYBABY EGTFXXX-XXX-197 4XXX9435N21 GIFT C	1,000.00	Gift/Awards	Sep 10, 2019
CS *HOTELS.COM GC XXX-XXX-1977 4XXX4055UYZ GIFT CA	1,000.00	Gift/Awards	Sep 10, 2019
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,000.00	Gift/Awards	Sep 10, 2019
MARRIOTT GIFT CARDS MIDVALE UT XXXXXXXX XXX-XXX-4	1,000.00	Gift/Awards	Sep 10, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX0073VU5 GIFT CA	2,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX9190AU5 GIFT CA	1,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 9XXX7723U5 GIFT CA	2,000.00	Gift/Awards	May 13, 2019
CS *HOTELS.COM GC XXX-XXX-1977 4XXX2756TI GIFT CA	1,000.00	Gift/Awards	Apr 11, 2019
Beard Supply	1,623.75	Gift/Awards	Jan 10, 2018
Patagonia	2,685.71	Gift/Awards	Jan 26, 2018
Political Contribution	25,000.00	Gift/Charity	Jun 30, 2018
Political Contribution	25,000.00	Gift/Charity	Jun 30, 2019
Total	\$ 445,725.61		

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit F - SOFA 25

Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
Aberdeen Loan Funding, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	N/A	CLO Fund	12/14/2006	
Brentwood CLO, Ltd.	IMA	MaplesFS - PO Box 1093, Grand Cayman, KY1-1102, Cayman Islands	98-0524481	CLO Fund	5/21/2006	
Bristol Bay Funding Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0418113	CLO Fund	11/18/2003	
Eastland CLO, Ltd.	IMA	Eliau Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0550088	CLO Fund	3/31/2006	
Gleneagles CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	2/25/2005	
Grayson CLO, Ltd.	IMA	Eliau Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0522566	CLO Fund	2/7/2006	
Greenbriar CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	10/24/2007	
Highland CDO Holding Company	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0527935	HFP sub	1/24/2006	
Highland CDO Opportunity Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899941	Hedge fund	11/3/2005	Terminated
Highland CDO Opportunity Fund, Ltd.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	N/A	Hedge fund	5/8/2002	Terminated
Highland CDO Opportunity Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0520689	Hedge fund	10/31/2005	Terminated
Highland Credit Opportunities CDO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0512429	Hedge fund	11/1/2005	
Highland Credit Opportunities Japanese Feeder Sub-Trust	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	N/A	Hedge fund	8/22/2007	
Highland Credit Strategies Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147211	Hedge fund	8/2/2005	
Highland Credit Strategies Fund, Ltd.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0466202	Hedge fund	8/8/2005	
Highland Credit Strategies Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0466203	Hedge fund	8/19/2005	
Highland Dynamic Income Fund, L.P. (fka Highland Capital Loan Fund, L.P.)	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2123634	Hedge fund	2/25/2013	
Highland Dynamic Income Fund, Ltd. (fka Highland Loan Fund, Ltd.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A	Hedge fund	2/26/2013	
Highland Dynamic Income Master Fund, L.P. (fka Highland Loan Master Fund, L.P.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1169838	Hedge fund	2/26/2013	
Highland Financial Corp.	IMA - terminated	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-4392555	HFP sub	2/28/2006	
Highland Flexible Income UCITS Fund	IMA	23 St. Stephen's Green, Dublin 2, Ireland	N/A	Separate account	6/7/2018	
Highland Legacy Limited	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	7/6/1999	
Highland Loan Funding V, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	2/5/2001	
Highland Multi Strategy Credit Fund, L.P. (fka Highland Credit Opportunities Fund, L.P., fka Highland Credit Opportunities CDO, L.P.)	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3874256	Hedge fund	12/1/2005	
Highland Multi Strategy Credit Fund, Ltd. (fka Highland Credit Opportunities Fund, Ltd.)	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-0587370	Hedge fund	12/29/2005	
Highland Park CDO 1, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0515982	CLO Fund	7/12/2006	
Highland Prometheus Feeder Fund I, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1334547	Hedge fund	11/7/2016	
Highland Prometheus Feeder Fund II, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1353013	Hedge fund	2/17/2017	
Highland Prometheus Master Fund, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1334763	Hedge fund	11/7/2016	
Highland Restoration Capital Partners Master, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1458205	Private equity fund	11/14/2007	
Highland Restoration Capital Partners Offshore, L.P.	IMA	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-0558962	Private equity fund	11/13/2007	
Highland Restoration Capital Partners, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1456033	Private equity fund	11/14/2007	
Highland Select Equity Fund, L.P.	IMA	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	75-2970177	Hedge fund	12/5/2001	
Highland Select Equity Master Fund, L.P.	IMA	MQ Services Ltd, Victoria House, 31 Victoria Street, Hamilton HM10, Bermuda	98-0520466	Hedge fund	4/12/2007	
Highland Special Opportunities Holding Company	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0532735	HFP sub	1/24/2006	Terminated
Jasper CLO, Ltd.	IMA	Eliau Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595492	CLO Fund	3/9/2005	
Liberty CLO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595490	CLO Fund	6/30/2005	
Longhorn Credit Funding, LLC	IMA	United Corporate Services, Inc., 874 Walker Rd, Ste C, Dover, DE 19904	N/A	Separate account	10/15/2007	
ML CLO XIX Sterling (Cayman), Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	4/27/1998	
Pam Capital Funding, L.P.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	20-3010953	CLO Fund	5/8/1998	
PamCo Cayman Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	1/18/1997	
PensionDanmark Pensionsforsikringsaktieselskab	IMA	Langelinie Allé 43, DK-2100 Copenhagen Ø	N/A	Separate account	6/24/1992	
Red River CLO, Ltd.	IMA	Eliau Fiduciary Services (Cayman) Limited - 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0527219	CLO Fund	1/24/2006	
Rockwall CDO II Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	4/12/2006	
Rockwall CDO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0461407	CLO Fund	6/7/2005	
Southfork CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	N/A	CLO Fund	10/21/2004	
Stratford CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0540945	CLO Fund	10/17/2006	
Valhalla CLO, Ltd.	IMA	Intertrust Corporate Services (Cayman) Limited , 190 Elgin Ave, George Town, Grand Cayman KY1-9005, Cayman Islands	98-0595491	CLO Fund	6/9/2004	
Westchester CLO, Ltd.	IMA	MaplesFS Limited, PO Box 1093, George Town, Grand Cayman KY1-1102, Cayman islands	98-0546784	CLO Fund	11/10/2006	
Highland Latin America GP, Ltd.	Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362190	GP of the relying advisor to the Argentina fund	3/6/2017	

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit F - SOFA 25

Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
Highland Capital Management Latin America, L.P.	Highland Capital Management, L.P., as trustee of Highland Latin America Trust and nominee for and on behalf of Highland Latin America LP, Ltd.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362202	Relying advisor to the Argentina fund	4/13/2017	
Neutra, Ltd.	Highland Capital Management, L.P., as trustee of Acis CMOA Trust and nominee for and on behalf of Highland CLO Assets Holdings Limited	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090422		12/12/2012	
Asbury Holdings, LLC (fka HCSLR Camelback Investors (Delaware), LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Holds HCMLP's Haygood interest	2/14/2017	
De Kooning, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090348	Formed to hold Select's interest in Barclays' assignment	12/12/2012	
HCREF-I Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-1998057	Holds HCMLP interest in HCREF	12/13/2012	
HCREF-XI Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2030348	Holds HCMLP's interest in HE Mezz KR, LLC	12/13/2012	
HCREF-XII Holding Corp.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-2032401	Holds HCMLP's interest in 2006 Milam East Partners LP	12/13/2012	
HFP GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	16-1746972	HFP GP	1/20/2006	
Highland Brasil, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-4691319	Managing member of BB Votorantim Highland In	1/28/2014	
Highland Capital Management (Singapore) Pte Ltd	Highland Capital Management, L.P.	Tricor, 80 Robinson Road #02-00, Singapore 068898	98-0580590	HCMLP's wholly owned sub in Singapore	4/2/2008	
Highland Capital Management Korea Limited	Highland Capital Management, L.P.	(Seoul Finance Center, Taepyeongro-1-ga) 21F, 136, Sejong-daero, Jung-gu, Seoul, Korea	98-1120007	Relying advisor to the Korea PEF	8/2/2012	
Highland Capital Multi-Strategy Fund, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5237025	Private fund	7/6/2006	
Highland Capital Special Allocation, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1175318	Entity received the incentive allocation from HFP.	12/21/2006	
Highland CDO Opportunity Fund GP, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899907	Hedge fund	10/20/2005	
Highland CDO Opportunity GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899870	Hedge fund GP	10/20/2005	
Highland CLO Assets Holdings Limited	Highland Capital Management, L.P.	Maples Corporate Services (BVI) Limited Kingston Chambers, PO Box 173, Road Town Tortola, British Virgin Islands	98-1417806		12/19/2017	
Highland CLO Management Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1432973		10/27/2017	
Highland Dynamic Income Fund GP, LLC (fka Highland Capital Loan GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	80-0898281	Hedge fund GP	2/25/2013	
Highland Employee Retention Assets LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1596366	HERA	6/23/2009	
Highland ERA Management, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	HERA manager	2/1/2013	
Highland Financial Partners, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-0446391	HFP	1/20/2006	Terminated
Highland Fund Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A		5/24/2016	
Highland General Partner, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147210	Hedge fund GP	7/26/2005	
Highland GP Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	86-1147208	Hedge fund GP	7/26/2005	
Highland HCF Advisor Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1401127	Advisor to Highland CLO Funding, Ltd.	10/27/2017	
Highland Latin America LP, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1362186	Argentina fund structure	3/6/2017	
Highland Multi Strategy Credit Fund GP, L.P. (fka Highland Credit Opportunities CDO GP, L.P.)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/29/2005	
Highland Multi Strategy Credit GP, LLC (fka Highland Credit Opportunities CDO GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/29/2005	
Highland Multi-Strategy Fund GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5236824	Private fund GP	7/6/2006	
Highland Multi-Strategy Fund GP, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-5236931	Private fund GP	7/6/2006	
Highland Receivables Finance I, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-8123634	Entity created in 2006 that purchased all of HCMLP's receivables 100% owned by HCMLP.	12/28/2006	
Highland Restoration Capital Partners GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1455912	Private equity fund GP	11/6/2007	
Highland Select Equity Fund GP, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899917	Hedge fund GP	10/20/2005	
Highland Select Equity GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-3899886	Hedge fund GP	10/20/2005	
Highland SunBridge GP, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Hedge fund GP	12/15/2015	
Hirst, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090361	Formed to hold CDO Ltd's interest in Barclays assignment	12/12/2012	
Hockney, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090388	Formed to hold Crusader's interest in Barclays assignment	12/12/2012	
Maple Avenue Holdings, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	81-3600687	Holds Uchi loan	8/17/2016	
NexPoint Hospitality Trust	Highland Capital Management, L.P.	333 Bay Street, Suite 3400, Toronto, Ontario M5H 2S7, Canada	83-6637675	Hospitality REIT	12/12/2018	
NexPoint Insurance Distributors, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2921534	Insurance broker	7/25/2019	
NexPoint Insurance Solutions GP, LLC (fka Highland Capital Insurance Solutions GP, LLC)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2571487	Insurance advisor GP	4/4/2019	
NexPoint Insurance Solutions, L.P. (fka Highland Capital Insurance Solutions, L.P.)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-2584142	Insurance advisor	4/4/2019	
NexPoint Multifamily Capital Trust, Inc.	Highland Capital Management, L.P.	The Corporation Trust, 2405 York Rd, Ste 201, Lutherville Timonium, MD 21093	46-4106316	NMCT REIT	11/12/2013	
NexPoint Real Estate Strategies Fund	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	81-1061590	Retail fund	3/10/2006	
NexPoint Residential Trust Inc.	Highland Capital Management, L.P.	The Corporation Trust, 2405 York Rd, Ste 201, Lutherville Timonium, MD 21093	47-1881359	NXRT REIT	9/19/2014	
NexPoint Strategic Opportunities Fund (fka NexPoint Credit Strategies Fund)	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	80-0139099	Retail fund	3/10/2006	
NHT Holdco, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-3011801	Hospitality REIT structure	1/2/2019	
Oldenburg, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090453	Formed to hold CDO LP's interest in Barclays assignment	12/12/2012	
Penant Management LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-1614710	Holds HCREF's interest in Barclays assignment	12/12/2012	
PetroCap Incentive Partners III, LP	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	?	Petrocap fund	11/16/2017	
PetroCap Partners II, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	46-4691213	Petrocap fund	10/7/2013	
PetroCap Partners III, L.P.	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	?	Petrocap fund	11/16/2017	
Pollack, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090519		12/12/2012	
SE Multifamily Holdings LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	32-0576655	RE investment holding	8/23/2018	

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit F - SOFA 25

Name	Relationship	Address	EIN	Description of Business	Date of Creation	Date of Termination (if applicable)
The Dondero Insurance Rabbi Trust	Highland Capital Management, L.P.	300 Crescent Ct, Ste 700, Dallas, TX 75201	75-2716725	Holds Dondero's life insurance policies and the proceeds to be used to fund HCM's obligation to purchase Dondero Interests from the Trust Beneficiaries per Buy-Sell Agreement	5/27/2004	
The Okada Insurance Rabbi Trust	Highland Capital Management, L.P.	300 Crescent Ct, Ste 700, Dallas, TX 75201	75-2716725	Holds Okada's life insurance policies and the proceeds to be used to fund HCM's obligation to purchase Okada Interests from the Trust Beneficiaries per Buy-Sell Agreement	5/27/2004	
US Gaming SPV, LLC	Highland Capital Management, L.P.	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	84-1769285	SPV of eSports investment in Korea	5/14/2019	
Warhol, Ltd.	Highland Capital Management, L.P.	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	98-1090362	Formed to hold Ops' interest in Barclays assignment	12/12/2012	
HE Capital 232 Phase I, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1616599	Underlying property is a 71.73 acre site consisting of 232 finished single family lots in the NW Phoenix development of Asante.	12/20/2007	
HE Capital Asante, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-0525645	Underlying project is a 843 acre multi-phase residential development in NW Phoenix, AZ	7/5/2007	
HE Capital Fox Trails, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Underlying project is a 889.58 acre vacant parcel in NW Phoenix with PAD approval for 2,320 single family units.	3/10/2008	
HE Capital KR, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	N/A	Underlying project is a 1,829.67 acre vacant parcel in SW Phoenix proposed for 4,250 single family lots of which 1,431 have final plat approval (Phase I) and 50.94 acres of commercial land.	7/5/2007	
HE Capital, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	20-8711786	Parent entity for joint venture between Ellman and Highland.	3/22/2007	
HE CLO Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	37-1666849	Blockers that used to hold Ellman interest	2/3/2011	
HE Mezz Fox Trails, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-2151278	Underlying project is a 889.58 acre vacant parcel in NW Phoenix with PAD approval for 2,320 single family units.	3/10/2008	
HE Mezz KR, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-0611280	Underlying project is a 1,829.67 acre vacant parcel in SW Phoenix proposed for 4,250 single family lots of which 1,431 have final plat approval (Phase I) and 50.94 acres of commercial land.	7/27/2007	
HE Peoria Place Property, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1600012	Underlying project is a 127.39 acre vacant parcel in NW Phoenix being improved with interior roadways for ultimate development or sale under the PAD approving 11 acres of office, 23 acres of retail, 50 acres of single family and 43 acres of multi family.	12/10/2007	
HE Peoria Place, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-1599959	Underlying project is a 127.39 acre vacant parcel in NW Phoenix being improved with interior roadways for ultimate development or sale under the PAD approving 11 acres of office, 23 acres of retail, 50 acres of single family and 43 acres of multi family.	11/14/2007	
Hibiscus HoldCo, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1824370	Blocker to hold Turtle Bay assets	2/2/2010	
Highland CLO Gaming Holdings, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-3995018	CLO blocker that used to hold Afflity Gaming interests	11/18/2010	
Highland TCI Holding Company, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	45-2620554	CLO blocker to hold TCI/Park West assets	6/21/2011	
Highland's Roads Land Holding Company, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-4572095	CLO blocker to hold LLV reorg equity	3/30/2009	
Kuillima Montalban Holdings, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	27-1942638	CLO blocker to hold Turtle Bay equity	2/19/2010	
Kuillima Resort Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	26-4572180	CLO blocker to hold Turtle Bay equity	3/18/2009	
Park West Holdco, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	37-1641409	Holds TCI assets	4/4/2011	
Park West Portfolio Holdco, LLC	HCMLP-Manager	CT Corporation, 1999 Bryan St, Ste 900, Dallas, TX 75201	90-0737248	Holds TCI assets	4/14/2011	
PDK Toys Holdco, LLC	HCMLP-Manager	The Corporation Trust Company, 1209 Orange St, Wilmington, DE 19801	83-3591646	PDK blocker to hold Toys R'Us loan	2/14/2019	
Acis CMOA Trust	HCMLP - Trustee	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A		3/30/2018	
Highland Latin America Trust	HCMLP - Trustee	Maples Corporate Services Limited PO Box 309, Ugland House Grand Cayman KY1-1104, Cayman Islands	N/A		3/30/2018	

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit G - SOFA 30

Name	Amounts	Date	Reason
Dondero, James	161.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	01/15/2019	Regular Base Pay
Dondero, James	161.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	01/31/2019	Regular Base Pay
Dondero, James	161.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	02/15/2019	Regular Base Pay
Dondero, James	161.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	02/28/2019	Regular Base Pay
Dondero, James	161.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	03/15/2019	Regular Base Pay
Dondero, James	161.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	03/29/2019	Regular Base Pay
Dondero, James	161.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	04/15/2019	Regular Base Pay
Dondero, James	161.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	04/30/2019	Regular Base Pay
Dondero, James	161.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	05/15/2019	Regular Base Pay
Dondero, James	161.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	05/31/2019	Regular Base Pay
Dondero, James	161.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	06/14/2019	Regular Base Pay
Dondero, James	161.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	06/28/2019	Regular Base Pay
Dondero, James	161.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	07/15/2019	Regular Base Pay
Dondero, James	161.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	07/31/2019	Regular Base Pay
Dondero, James	161.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	08/15/2019	Regular Base Pay
Dondero, James	161.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	08/30/2019	Regular Base Pay
Dondero, James	161.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	09/13/2019	Regular Base Pay
Dondero, James	161.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	09/30/2019	Regular Base Pay
Dondero, James	161.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	10/15/2019	Regular Base Pay
Dondero, James	161.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	10/31/2018	Regular Base Pay
Dondero, James	161.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	11/15/2018	Regular Base Pay
Dondero, James	161.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	11/30/2018	Regular Base Pay
Dondero, James	161.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	12/14/2018	Regular Base Pay
Dondero, James	161.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Dondero, James	23,437.51	12/31/2018	Regular Base Pay
Ellington, Scott	71.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	01/15/2019	Regular Base Pay
Ellington, Scott	71.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	01/31/2019	Regular Base Pay
Ellington, Scott	71.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	02/15/2019	Regular Base Pay
Ellington, Scott	300,000.00	02/28/2019	Bonus
Ellington, Scott	71.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	02/28/2019	Regular Base Pay
Ellington, Scott	350,000.00	03/15/2019	Bonus
Ellington, Scott	71.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	03/15/2019	Regular Base Pay
Ellington, Scott	71.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	03/29/2019	Regular Base Pay

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit G - SOFA 30

Name	Amounts	Date	Reason
Ellington, Scott	71.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	04/15/2019	Regular Base Pay
Ellington, Scott	71.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	04/30/2019	Regular Base Pay
Ellington, Scott	71.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	05/15/2019	Regular Base Pay
Ellington, Scott	71.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	05/31/2019	Regular Base Pay
Ellington, Scott	71.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	06/14/2019	Regular Base Pay
Ellington, Scott	350,629.00	06/28/2019	Bonus and/or Deferred Compensation
Ellington, Scott	71.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	06/28/2019	Regular Base Pay
Ellington, Scott	71.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	07/15/2019	Regular Base Pay
Ellington, Scott	71.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	07/31/2019	Regular Base Pay
Ellington, Scott	71.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	08/15/2019	Regular Base Pay
Ellington, Scott	650,000.00	08/30/2019	Bonus
Ellington, Scott	71.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	08/30/2019	Regular Base Pay
Ellington, Scott	71.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	09/13/2019	Regular Base Pay
Ellington, Scott	71.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	09/30/2019	Regular Base Pay
Ellington, Scott	71.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	10/15/2019	Regular Base Pay
Ellington, Scott	71.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	10/31/2018	Regular Base Pay
Ellington, Scott	71.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	11/15/2018	Regular Base Pay
Ellington, Scott	71.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	11/30/2018	Regular Base Pay
Ellington, Scott	71.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	12/14/2018	Regular Base Pay
Ellington, Scott	604.78	12/31/2018	Gross up value from Dividend Reinvestment Plan
Ellington, Scott	71.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Ellington, Scott	18,750.00	12/31/2018	Regular Base Pay
Okada, Mark	204.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	01/15/2019	Regular Base Pay
Okada, Mark	204.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	01/31/2019	Regular Base Pay
Okada, Mark	204.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	02/15/2019	Regular Base Pay
Okada, Mark	204.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	02/28/2019	Regular Base Pay
Okada, Mark	204.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	03/15/2019	Regular Base Pay
Okada, Mark	204.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	03/29/2019	Regular Base Pay
Okada, Mark	204.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	04/15/2019	Regular Base Pay
Okada, Mark	204.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	04/30/2019	Regular Base Pay
Okada, Mark	204.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	05/15/2019	Regular Base Pay
Okada, Mark	204.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	05/31/2019	Regular Base Pay
Okada, Mark	204.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	06/14/2019	Regular Base Pay
Okada, Mark	204.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit G - SOFA 30

Name	Amounts	Date	Reason
Okada, Mark	32,552.09	06/28/2019	Regular Base Pay
Okada, Mark	204.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	07/15/2019	Regular Base Pay
Okada, Mark	204.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	07/31/2019	Regular Base Pay
Okada, Mark	204.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	08/15/2019	Regular Base Pay
Okada, Mark	204.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	08/30/2019	Regular Base Pay
Okada, Mark	204.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	09/13/2019	Regular Base Pay
Okada, Mark	204.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	09/30/2019	Regular Base Pay
Okada, Mark	204.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	10/31/2018	Regular Base Pay
Okada, Mark	204.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	11/15/2018	Regular Base Pay
Okada, Mark	204.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	11/30/2018	Regular Base Pay
Okada, Mark	204.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	12/14/2018	Regular Base Pay
Okada, Mark	272.64	12/31/2018	Gross up value from Dividend Reinvestment Plan
Okada, Mark	204.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Okada, Mark	32,552.09	12/31/2018	Regular Base Pay
Parker, Lee	47.50	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	01/15/2019	Regular Base Pay
Parker, Lee	47.50	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	01/31/2019	Regular Base Pay
Parker, Lee	47.50	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	02/15/2019	Regular Base Pay
Parker, Lee	231,250.00	02/28/2019	Bonus
Parker, Lee	47.50	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	02/28/2019	Regular Base Pay
Parker, Lee	47.50	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	03/15/2019	Regular Base Pay
Parker, Lee	150,000.00	03/29/2019	Bonus
Parker, Lee	47.50	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	03/29/2019	Regular Base Pay
Parker, Lee	47.50	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	04/15/2019	Regular Base Pay
Parker, Lee	47.50	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	04/30/2019	Regular Base Pay
Parker, Lee	47.50	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	05/15/2019	Regular Base Pay
Parker, Lee	47.50	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	05/31/2019	Regular Base Pay
Parker, Lee	47.50	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	06/14/2019	Regular Base Pay
Parker, Lee	362,935.00	06/28/2019	Bonus and/or Deferred Compensation
Parker, Lee	47.50	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	06/28/2019	Regular Base Pay
Parker, Lee	47.50	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	07/15/2019	Regular Base Pay
Parker, Lee	47.50	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	07/31/2019	Regular Base Pay
Parker, Lee	47.50	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	08/15/2019	Regular Base Pay
Parker, Lee	381,250.00	08/30/2019	Bonus
Parker, Lee	47.50	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	08/30/2019	Regular Base Pay
Parker, Lee	47.50	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	09/13/2019	Regular Base Pay

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit G - SOFA 30

Name	Amounts	Date	Reason
Parker, Lee	47.50	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	09/30/2019	Regular Base Pay
Parker, Lee	47.50	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	10/15/2019	Regular Base Pay
Parker, Lee	47.50	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	10/31/2018	Regular Base Pay
Parker, Lee	47.50	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	11/15/2018	Regular Base Pay
Parker, Lee	47.50	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	11/30/2018	Regular Base Pay
Parker, Lee	47.50	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	12/14/2018	Regular Base Pay
Parker, Lee	483.56	12/31/2018	Gross up value from Dividend Reinvestment Plan
Parker, Lee	47.50	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Parker, Lee	14,583.33	12/31/2018	Regular Base Pay
Surgent, Thomas	56.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	01/15/2019	Regular Base Pay
Surgent, Thomas	56.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	01/31/2019	Regular Base Pay
Surgent, Thomas	56.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	02/15/2019	Regular Base Pay
Surgent, Thomas	300,000.00	02/28/2019	Bonus
Surgent, Thomas	56.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	02/28/2019	Regular Base Pay
Surgent, Thomas	325,000.00	03/15/2019	Bonus
Surgent, Thomas	56.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	03/15/2019	Regular Base Pay
Surgent, Thomas	56.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	03/29/2019	Regular Base Pay
Surgent, Thomas	56.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	04/15/2019	Regular Base Pay
Surgent, Thomas	56.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	04/30/2019	Regular Base Pay
Surgent, Thomas	56.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	05/15/2019	Regular Base Pay
Surgent, Thomas	100,000.00	05/31/2019	Bonus and/or Deferred Compensation
Surgent, Thomas	56.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	05/31/2019	Regular Base Pay
Surgent, Thomas	56.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	06/14/2019	Regular Base Pay
Surgent, Thomas	482,115.00	06/28/2019	Bonus and/or Deferred Compensation
Surgent, Thomas	56.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	06/28/2019	Regular Base Pay
Surgent, Thomas	56.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	07/15/2019	Regular Base Pay
Surgent, Thomas	56.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	07/31/2019	Regular Base Pay
Surgent, Thomas	56.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	08/15/2019	Regular Base Pay
Surgent, Thomas	625,000.00	08/30/2019	Bonus
Surgent, Thomas	56.25	08/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	08/30/2019	Regular Base Pay
Surgent, Thomas	56.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	09/13/2019	Regular Base Pay
Surgent, Thomas	56.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	09/30/2019	Regular Base Pay
Surgent, Thomas	56.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	16,666.67	10/15/2019	Regular Base Pay
Surgent, Thomas	56.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	10/31/2018	Regular Base Pay
Surgent, Thomas	56.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	11/15/2018	Regular Base Pay

Highland Capital Management LP
Case # 19-34054-SGJ
Exhibit G - SOFA 30

Name	Amounts	Date	Reason
Surgent, Thomas	56.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	11/30/2018	Regular Base Pay
Surgent, Thomas	56.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	12/14/2018	Regular Base Pay
Surgent, Thomas	2,344.18	12/31/2018	Gross up value from Dividend Reinvestment Plan
Surgent, Thomas	56.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Surgent, Thomas	15,625.00	12/31/2018	Regular Base Pay
Waterhouse, Frank	71.25	01/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	01/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	01/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	01/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	02/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	02/15/2019	Regular Base Pay
Waterhouse, Frank	206,250.00	02/28/2019	Bonus
Waterhouse, Frank	71.25	02/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	02/28/2019	Regular Base Pay
Waterhouse, Frank	71.25	03/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	03/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	03/29/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	03/29/2019	Regular Base Pay
Waterhouse, Frank	212,500.00	04/15/2019	Bonus
Waterhouse, Frank	71.25	04/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	04/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	04/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	04/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	05/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	05/15/2019	Regular Base Pay
Waterhouse, Frank	100,000.00	05/31/2019	Bonus and/or Deferred Compensation
Waterhouse, Frank	71.25	05/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	05/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	06/14/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	06/14/2019	Regular Base Pay
Waterhouse, Frank	306,801.00	06/28/2019	Bonus and/or Deferred Compensation
Waterhouse, Frank	71.25	06/28/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	06/28/2019	Regular Base Pay
Waterhouse, Frank	71.25	07/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	07/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	07/31/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	07/31/2019	Regular Base Pay
Waterhouse, Frank	71.25	08/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	08/15/2019	Regular Base Pay
Waterhouse, Frank	418,750.00	08/30/2019	Bonus
Waterhouse, Frank	14,583.33	08/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	09/13/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	09/13/2019	Regular Base Pay
Waterhouse, Frank	71.25	09/30/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	09/30/2019	Regular Base Pay
Waterhouse, Frank	71.25	10/15/2019	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	10/15/2019	Regular Base Pay
Waterhouse, Frank	71.25	10/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	10/31/2018	Regular Base Pay
Waterhouse, Frank	71.25	11/15/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	11/15/2018	Regular Base Pay
Waterhouse, Frank	71.25	11/30/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	11/30/2018	Regular Base Pay
Waterhouse, Frank	71.25	12/14/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	12/14/2018	Regular Base Pay
Waterhouse, Frank	71.25	12/31/2018	Group Term Life Insurance (value of premium for coverage in excess of \$50 K)
Waterhouse, Frank	14,583.33	12/31/2018	Regular Base Pay

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

<hr style="border: 0.5px solid black;"/> In re: HIGHLAND CAPITAL MANAGEMENT, L.P., ¹ <div style="text-align: center;">Debtor.</div> <hr style="border: 0.5px dashed black;"/>	§ § § § § §	Chapter 11 Case No. 19-34054-sgj11
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**GLOBAL NOTES AND STATEMENT OF LIMITATIONS, METHODS, AND
DISCLAIMER REGARDING DEBTOR'S SCHEDULES OF ASSETS AND
LIABILITIES AND STATEMENT OF FINANCIAL AFFAIRS**

Highland Capital Management, L.P. (the “Debtor”) submits its Schedules of Assets and Liabilities (the “Schedules”) and Statement of Financial Affairs (the “SoFA”) in the United States Bankruptcy Court for the Northern District of Texas, Dallas Division (the “Bankruptcy Court”). The Debtor, with the assistance of its advisors and management, prepared the Schedules and SoFA in accordance with section 521 title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”) and Rule 1007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

These Global Notes and Statement of Limitations, Methods, and Disclaimer Regarding the Debtor’s Schedules and SoFA (collectively, the “Global Notes”) pertain to, are incorporated by reference in, and comprise an integral part of the Schedules and SoFA. These Global Notes should be referred to, and reviewed in connection with any review of the Schedules and SoFA.²

The Schedules and SoFA have been prepared by the Debtor with the assistance and under the direction of the Debtor’s proposed Chief Restructuring Officer and additional personnel at Development Specialists, Inc. (collectively, the “CRO”) and are unaudited and subject to further review and potential adjustment and amendment. In preparing the Schedules and SoFA, the CRO relied on financial data derived from the Debtor’s books and records that was available at the time of preparation. The CRO has made reasonable efforts to ensure the accuracy and completeness of such financial information, however, subsequent information or discovery of other relevant facts may result in material changes to the Schedules and SoFA and inadvertent errors, omissions, or inaccuracies may exist. The Debtor reserves all rights to amend or supplement its Schedules and SoFA.

¹ The Debtor’s last four digits of its taxpayer identification number are (6725). The headquarters and service address for the above-captioned Debtor is 300 Crescent Court, Suite 700, Dallas, TX 75201.

² These Global Notes are in addition to any specific notes contained in the Debtor’s Schedules or SoFA. The fact that the Debtor has prepared a “general note” with respect to any of the Schedules and SoFA and not to others should not be interpreted as a decision by the Debtor to exclude the applicability of such general note to any of the Debtor’s remaining Schedules and SoFA, as appropriate.

Reservation of Rights. The Debtor reserves all rights to amend the SoFA and Schedules in all respects, as may be necessary or appropriate, including, but not limited to, the right to dispute or to assert offsets or defenses to any claim reflected on the SoFA and Schedules as to amount, liability or classification of the claim, or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.” Furthermore, nothing contained in the SoFA and Schedules shall constitute a waiver of rights by the Debtor involving any present or future causes of action, contested matters or other issues under the provisions of the Bankruptcy Code or other applicable non-bankruptcy laws.

Description of the Case and “As Is” Information Date. On October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief with the United States Bankruptcy Court for the District of Delaware (the “Delaware Bankruptcy Court”) under Chapter 11 of the Bankruptcy Code. The Debtor is managing its assets as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On December 4, 2019, the Delaware Bankruptcy Court entered an Order transferring this case to the Bankruptcy Court [Docket No. 1].

Asset information in the Schedules reflects the Debtor’s best estimate of asset values as of the Petition Date, unless otherwise noted. No independent valuation has been obtained.

Basis of Presentation. The Schedules and SoFA do not purport to represent financial statements prepared in accordance with Generally Accepted Accounting Principles (“GAAP”), nor are they intended to fully reconcile to any financial statements otherwise prepared and/or distributed by the Debtor.

Although these Schedules and SoFA may, at times, incorporate information prepared in accordance with GAAP, the Schedules and SoFA neither purport to represent nor reconcile to financial statements prepared and/or distributed by the Debtor in accordance with GAAP or otherwise. Moreover, given, among other things, the valuation and nature of certain liabilities, to the extent that the Debtor shows more assets than liabilities, this is not a conclusion that the Debtor was solvent at the Petition Date. Likewise, to the extent that the Debtor shows more liabilities than assets, this is not a conclusion that the Debtor was insolvent at the Petition Date or any time prior to the Petition Date.

Estimates. To timely close the books and records of the Debtor, the CRO must make certain estimates and assumptions that affect the reported amounts of assets and liabilities and reported revenue and expenses. The Debtor reserves all rights to amend the reported amounts of assets, liabilities, revenue, and expenses to reflect changes in those estimates and assumptions.

Confidentiality. There may be instances within the Schedules and SoFA where names, addresses, or amounts have been left blank. Due to the nature of an agreement between the Debtor and the third party, concerns of confidentiality, or concerns for the privacy of an individual, the Debtor may have deemed it appropriate and necessary to avoid listing such names, addresses, and amounts.

Intercompany Claims. Any receivables and payables between the Debtor and affiliated or related entities in this case (each an “Intercompany Receivable” or “Intercompany Payable” and, collectively, the “Intercompany Claims”) are reported as assets on Schedule B or liabilities on Schedule E and Schedule F. These Intercompany Claims include the following components, among others: 1) loans to affiliates or related entities, 2) accounts payable and payroll disbursements made out of an affiliate’s or related entity’s bank accounts on behalf of the Debtor, 3) centrally billed expenses, 4) corporate expense allocations, and 5) accounting for trade and other intercompany transactions. These Intercompany Claims may or may not result in allowed or enforceable claims by or against the Debtor, and by listing these claims the Debtor is not indicating a conclusion that the Intercompany Claims are enforceable. Intercompany Claims may also be subject to set off, recoupment, and netting not reflected in the Schedules. In situations where there is not an enforceable claim, the assets and/or liabilities of the Debtor may be greater or lesser than the amounts stated herein. All rights to amend intercompany Claims in the Schedules and SoFA are reserved.

The Debtor has listed the intercompany payables as unsecured claims on Schedule F. The Debtor reserves its rights to later change the characterization, classification, categorization, or designation of such items.

Insiders. For purposes of the Schedules and SoFA, the Debtor defines “insider” pursuant to section 101(31) of the Bankruptcy Code. Payments to insiders are set forth on Question 3.c. of the SoFA.

Persons listed as “insiders” have been included for informational purposes only. The Debtor did not take any position with respect to whether such individual could successfully argue that he or she is not an “insider” under applicable law, including without limitation, the federal securities laws, or with respect to any theories of liability or for any other purpose. Inclusion of any party in the Schedules and SoFA as an insider does not constitute an admission that such party is an insider or a waiver of such party’s right to dispute insider status.

Excluded Accruals and GAAP Entries. The Debtor’s balance sheet reflects liabilities recognized in accordance with GAAP; however, not all such liabilities would result in a claim against the Debtor. Certain liabilities (including but not limited to certain reserves, deferred charges, and future contractual obligations) have not been included in the Debtor’s Schedules. Other immaterial assets and liabilities may also have been excluded.

Classification and Claim Descriptions. Any failure to designate a claim on the Schedules as “disputed,” “contingent” or “unliquidated” does not constitute an admission by the Debtor that such amount is not “disputed,” “contingent” or “unliquidated.” The Debtor reserves the right to dispute, or to assert offsets or defenses to, any claim reflected on its Schedules as to amount, liability or classification or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.”

Listing a claim (i) in Schedule D as “secured,” (ii) in Schedule E as “priority” or (iii) in Schedule F as “unsecured nonpriority,” or listing a contract in Schedule G as “executory” or “unexpired,” does not constitute an admission by the Debtor of the legal rights of the claimant or a waiver of the Debtor’s right to recharacterize or reclassify such claim or contract.

Moreover, the Debtor reserves all rights to amend the SoFA and Schedules, in all respects, as may be necessary or appropriate, including, but not limited to, the right to dispute or to assert offsets or defenses to any claim reflected on the SoFA and Schedules as to amount, liability or classification of the claim, or to otherwise subsequently designate any claim as “disputed,” “contingent” or “unliquidated.” Furthermore, nothing contained in the SoFA and Schedules shall constitute a waiver of rights by the Debtor involving any present or future causes of action, contested matters or other issues under the provisions of the Bankruptcy Code or other relevant non-bankruptcy laws.

Credits and Adjustments. The claims of individual creditors for, among other things, goods, products, services or taxes are listed as the amounts entered on the Debtor’s books and records and may not reflect credits, allowances or other adjustments due from such creditors to the Debtor. The Debtor reserves all of its rights respecting such credits, allowances or other adjustments.

Setoffs. The Debtor may incur setoffs from third parties in its business. Setoffs in the ordinary course can result from various routine transactions, including intercompany transactions, pricing discrepancies, warranty claims and other disputes between the Debtor and third parties. Certain of these constitute normal setoffs consistent with the ordinary course of business in the Debtor’s industry. In such instances, such ordinary course setoffs are excluded from the Debtor’s responses to Question 13 of the SoFA. The Debtor reserves all rights to enforce or challenge, as the case may be, any setoffs that have been or may be asserted.

Specific Notes. These general notes are in addition to the specific notes set forth below or in the related Statement and Schedules hereinafter.

General Disclaimer

The Debtor has prepared the Schedules and the SoFA based on the information reflected in the Debtor’s books and records. However, inasmuch as the Debtor’s books and records have not been audited or formally closed and evaluated for proper cut-off on the Petition Date, the Debtor cannot warrant the absolute accuracy of these documents. The Debtor has made a diligent effort to complete these documents accurately and completely. To the extent additional information becomes available, the Debtor will amend and supplement the Schedules and SoFA.

Specific Schedules Disclosures

- a. **Schedule A/B, Part 4 - Investments; Non-Publicly Traded Stock and Interests in Incorporated and Unincorporated Businesses, including any Interest in an LLC, Partnership, or Joint Venture.** Certain ownership interests in subsidiaries have been listed in Schedule A/B, Part 4, at their book value on account of the fact that the fair market value of such ownership is dependent on numerous variables and factors. Fair value of such interests may differ significantly from their net book value. Further, for investments listed at fair value, many of the Debtor’s assets are not exchange traded and are fair valued utilizing unobservable

inputs, historical information, and significant and/or subjective estimates. As a result the liquidity and ultimately realized value of such investments may differ materially from the fair value listed on the schedule.

- b. **Schedule A/B, Part 7 - Office Furniture, Fixtures, and Equipment; and Collectibles.** Dollar amounts are presented net of accumulated depreciation and other adjustments.
- c. **Schedule A/B, Part 11 - All Other Assets.** Dollar amounts are presented net of impairments and other adjustments. Debtor has reflected “unknown” for value of its interests in various other assets. While the face value of the notes receivable is included, the current value of these as well as the other assets has not been determined and may differ materially.

Additionally, the Debtor may receive refunds, income tax refunds or other sales tax refunds at various times throughout its fiscal year. As of the Petition Date, however, certain of these amounts are unknown to the Debtor, and accordingly, may not be listed in Schedule A/B.

Other Contingent and Unliquidated Claims or Causes of Action of Every Nature, including Counterclaims of the Debtor and Rights to Setoff Claims. In the ordinary course of its business, the Debtor may have accrued, or may subsequently accrue, certain rights to counter-claims, cross-claims, setoffs, or refunds with its customers and suppliers. Additionally, the Debtor may be party to pending litigation in which the Debtor has asserted, or may assert, claims as a plaintiff or counter-claims and/or cross-claims as a defendant. Because certain of these claims are unknown to the Debtor and not quantifiable as of the Petition Date, they may not be listed on Schedule A/B, Part 11.

- d. **Schedule D - Creditors Who Have Claims Secured by Property.** The Debtor reserves its rights to dispute or challenge the validity, perfection, or immunity from avoidance of any lien purported to be granted or perfected in any specific asset to a secured creditor listed on Schedule D. Moreover, although the Debtor has scheduled claims of various creditors as secured claims, the Debtor reserves all rights to dispute or challenge the secured nature of any such creditor’s claim or the characterization of the structure of any such transaction or any document or instrument related to such creditor’s claim.

The descriptions provided in Schedule D are intended only to be a summary. Reference to the applicable agreements and other related relevant documents is necessary for a complete description of the collateral and the nature, extent, and priority of any liens.

The Debtor has not included on Schedule D parties that may believe their claims are secured through setoff rights or inchoate statutory lien rights. Although there are multiple parties that hold a portion of the debt included in the secured

facilities, only the administrative agents have been listed for purposes of Schedule D.

e. **Schedule E/F - Creditors Who Have Unsecured Claims.**

Part 1 - Creditors with Priority Unsecured Claims. Pursuant to the *Order (I) Authorizing the Debtor to (A) Pay and Honor Prepetition Compensation, Reimbursable Business Expenses, and Employee Benefit Obligations, and (B) Maintain and Continue Certain Compensation and Benefit Programs Postpetition; and (11) Granting Related Relief* [Docket No. 39] (the “Wage Order”), the Debtor received authority to pay certain prepetition obligations, including to pay employee wages and other employee benefits, in the ordinary course of business. The Debtor believes that any non-insider employee claims for prepetition amounts related to ongoing payroll and benefits, whether allowable as a priority or nonpriority claim, which were due and payable at the time of the Petition Date have been or will be satisfied as permitted pursuant to the Wage Order. The Debtor filed the *Motion of the Debtor for Entry of an Order Authorizing the Debtor to Pay and Honor Ordinary Course Obligations under Employee Bonus Plans and Granting Related Relief* [Docket No. 177] pursuant to which the Debtor seeks authority to pay and honor certain prepetition bonus programs. Employee claims related to these programs are shown in the aggregate amounts in Schedule E/F for privacy reasons. Additional information is available by appropriate request to the Debtor. The listing of a claim on Schedule E/F, Part 1, does not constitute an admission by the Debtor that such claim or any portion thereof is entitled to priority status.

Part 2 - Creditors with Nonpriority Unsecured Claims. The liabilities identified in Schedule E/F, Part 2, are derived from the Debtor’s books and records. The Debtor made a reasonable attempt to set forth its unsecured obligations, although the actual amount of claims against the Debtor may vary from those liabilities represented on Schedule E/F, Part 2. The listed liabilities may not reflect the correct amount of any unsecured creditor’s allowed claims or the correct amount of all unsecured claims.

Schedule E/F, Part 2 reflects liabilities based on the Debtor’s books and records.

Schedule E/F, Part 2, contains information regarding threatened or pending litigation involving the Debtor. The amounts for these potential claims are listed as “unknown” and are marked as contingent, unliquidated, and disputed in the Schedules and Statements. Additionally, the amounts of certain litigation claims may be estimates based on the allegations asserted by the litigation counterparty, and do not constitute an admission by the Debtor with respect to either liability for, or the amount of, such claims.

Schedule E/F, Part 2, reflects certain prepetition amounts owing to counterparties to executory contracts and unexpired leases. Such prepetition amounts, however,

may be paid in connection with the assumption or assumption and assignment of an executory contract or unexpired lease. In addition, Schedule E/F, Part 2, does not include claims that may arise in connection with the rejection of any executory contracts and unexpired leases, if any, that may be or have been rejected.

As of the time of filing of the Schedules and Statements, the Debtor had not received all invoices for payables, expenses, and other liabilities that may have accrued prior to the Petition Date. Accordingly, the information contained in Schedules D and E/F may be incomplete. The Debtor reserves its rights to amend Schedules D and E/F if and as it receive such invoices.

- f. **Schedule G - Executory Contracts and Unexpired Leases.** While reasonable efforts have been made to ensure the accuracy of Schedule G, inadvertent errors or omissions may have occurred.

Listing a contract or agreement on Schedule G does not constitute an admission that such contract or agreement is an executory contract or unexpired lease or that such contract or agreement was in effect on the Petition Date or is valid or enforceable. The Debtor hereby reserves all of its rights to dispute the validity, status, or enforceability of any contracts, agreements, or leases set forth in Schedule G and to amend or supplement such Schedule as necessary. Certain of the leases and contracts listed on Schedule G may contain renewal options, guarantees of payment, indemnifications, options to purchase, rights of first refusal and other miscellaneous rights. Such rights, powers, duties and obligations are not set forth separately on Schedule G. In addition, the Debtor may have entered into various other types of agreements in the ordinary course of its business, such as supplemental agreements, amendments, and letter agreement, which documents may not be set forth in Schedule G.

Certain of the agreements listed on Schedule G may have expired or terminated pursuant to their terms, but are listed on Schedule G in an abundance of caution.

The Debtor reserves all rights to dispute or challenge the characterization of any transaction or any document or instrument related to a creditor's claim.

In some cases, the same supplier or provider may appear multiple times in Schedule G. Multiple listings, if any, reflect distinct agreements between the Debtor and such supplier or provider.

The listing of any contract on Schedule G does not constitute an admission by the Debtor as to the validity of any such contract. The Debtor reserves the right to dispute the effectiveness of any such contract listed on Schedule G or to amend Schedule G at any time to remove any contract.

Omission of a contract or agreement from Schedule G does not constitute an admission that such omitted contract or agreement is not an executory contract or

unexpired lease. The Debtor's rights under the Bankruptcy Code with respect to any such omitted contracts or agreements are not impaired by the omission.

EXHIBIT 88

Case 19-34054-sgj11 Doc 405 Filed 01/27/20 Entered 01/27/20 16:42:55 Page 1 of 11
Docket #0405 Date Filed: 01/27/2020

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:

Chapter 11

HIGHLAND CAPITAL MANAGEMENT, LP

Case No. 19-12239-CSS

Debtors.

Reporting Period:

10/31/2019

MONTHLY OPERATING REPORT

File with Court and submit copy to United States Trustee within 20 days after end of month.

Required Documents	Form No.	Document Attached	Explanation Attached	Affidavit/ Supplement Attached
Schedule of Cash Receipts and Disbursements	MOR-1	x		
Attestation of Bank Reconciliation by the CRO	MOR-1a	x		
Schedule of Professional Fees and Expenses Paid		n/a		
Cash Disbursements Journals	MOR-1b			
Statement of Operations	MOR-2	x		
Balance Sheet	MOR-3	x		
Status of Postpetition Taxes				
Copies of IRS Form 6123 or Payment Receipt	MOR-4a	x		
Copies of Tax Returns Filed During Reporting Period		n/a		
Summary of Unpaid Postpetition Debts				
Listing of Aged Accounts Payable	MOR-4b	x		
Accounts Receivable Reconciliation and Aging	MOR-5a	x		
Debtor Questionnaire	MOR-5b	x		
Budget	MOR-6			

I declare under penalty of perjury (28 U.S.C. Section 1746) that this report and the attached documents are true and correct to the best of my knowledge and belief.

Signature of Debtor

Date

Signature of Joint Debtor

Date

Signature of Authorized Individual

Date

Bradley Sharp

Printed Name of Authorized Individual

Chief Restructuring Officer

Title of Authorized Individual

/s/ Frank Waterhouse
Signature of Authorized Individual

12-2-19

Frank Waterhouse
Printed Name of Authorized IndividualChief Financial Officer
Title of Authorized Individual**Exhibit 20**

1934054200127000000000007

Appx. 01476

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019**Cash Disbursements and Receipts from 10/16/2019 - 10/31/2019**
(in thousands)

Week beginning	Compass Operating x07312	Jefferies x09312	Nexbank CD x58911	Nexbank Insurance x75113	Nexbank Operating x41501	Maxim Group x1885	Nexbank Operating x07215	Total
Beginning cash	\$ 2,126	-	\$ 135	\$ 291	\$ -	\$ -	\$ 1	\$ 2,554
Operating Receipts								
Other	4	-	-	3	-	-	-	7
Management fees and other related receipts	62	-	-	-	-	-	-	62
Compensation and benefits								
Payroll, benefits, and taxes + exp reimb	(526)	-	-	(212)	-	-	-	(738)
Severance payments	-	-	-	-	-	-	-	-
Total compensation and benefits	(526)	-	-	(212)	-	-	-	(738)
General overhead								
General overhead - critical vendors (pre-petition)	(2)	-	-	-	-	-	-	(2)
General overhead - post-petition vendors	(35)	-	-	-	-	-	-	(35)
Singapore service fees	(35)	-	-	-	-	-	-	(35)
Total general overhead	(72)	-	-	-	-	-	-	(72)
Investing cash flows (principal only on notes)								
Third party fund actual/expected distributions	79	-	-	-	-	-	-	79
Divs, paydowns, misc from investment assets	-	410	-	-	-	-	-	410
Ending cash	1,673	410	135	82	-	-	1	2,302

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019

Attestation of Bank Reconciliation by the CRO

Entity	Case No.	Bank	Account Type	Account # (last 4 digits)	Ending Bank Balance
Highland Capital Management, LP	19-12239-CSS	BBVA Compass	Operating	x6342	1,672,176.25
Highland Capital Management, LP	19-12239-CSS	Nexbank	Operating	x4130	250.70
Highland Capital Management, LP	19-12239-CSS	Nexbank	Insurance	x7513	82,272.52
Highland Capital Management, LP	19-12239-CSS	Jefferies LLC	Brokerage	x0932	410,107.71
Highland Capital Management, LP	19-12239-CSS	Maxim Group	Brokerage	x1885	163.61
Highland Capital Management, LP	19-12239-CSS	Nexbank	CD	x5891	135,205.21
Highland Capital Management, LP	19-12239-CSS	Nexbank	Operating	x668	-
Highland Capital Management, LP	19-12239-CSS	Nexbank	Operating	x0735	1,453.59
Total:					2,301,630

No bank statements are being provided with this report. I attest that the bank statements for the above-listed accounts have been reconciled to the Debtor's books and records.

Following month end, The Debtor opened three bank accounts at East West Bank. On November 21, 2019, the Debtor closed accounts ending in x735, x668 x130 and x513.

Signature of Authorized Individual

Frank Waterhouse

Printed Name of Authorized Individual



Signature of Authorized Individual

Bradley Sharp

Printed Name of Authorized Individual

Date

Chief Financial Officer

Title of Authorized Individual

12-2-19

Date

Chief Restructuring Officer

Title of Authorized Individual

Case 19-34054-sgj11 Doc 405 Filed 01/27/20 Entered 01/27/20 16:49:55 Page 4 of 11

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019

RECEIPTS LISTING

Date	Amount	Sender	Bank
10/16/2019	2,777.24	Discovery Benefits	x6342
10/16/2019	592.81	Discovery Benefits	x6342
10/21/2019	46.00	Co-op	x4130
10/22/2019	79,266.46	Third party fund distribution	x6342
10/22/2019	93.83	Paylocity	x6342
10/24/2019	14,128.70	Fund Reimbursement	x6342
10/25/2019	438.00	Discovery Benefits	x6342
10/28/2019	15,000.00	Shared Services	x6342
10/31/2019	17,763.15	Fund Reimbursement	x6342
10/31/2019	14,533.49	Fund Reimbursement	x6342
10/31/2019	13.88	Interest	x4130
10/30/2019	592.82	Insurance Premiums	x7513
10/31/2019	2,371.27	Insurance Premiums	x7513
10/31/2019	0.19	Interest	x0735
10/25/2019	369,973.45	Investment receipts	x0932
10/28/2019	12,766.83	Investment receipts	x0932
10/28/2019	27,367.43	Investment receipts	x0932
10/31/2019	67.44	Dividend	x1885
557,792.99			

DISBURSEMENT LISTING

Date	Amount	Vendor	Bank
10/16/2019	2,047.22	Zayo	x6342
10/16/2019	836.22	Discovery Benefits	x6342
10/16/2019	52.79	Discovery Benefits	x6342
10/16/2019	20.00	Discovery Benefits	x6342
10/22/2019	11,813.33	Singapore Service Fee Funding	x6342
10/22/2019	12,600.88	Singapore Service Fee Funding	x6342
10/22/2019	40.00	Discovery Benefits	x6342
10/22/2019	20.00	Discovery Benefits	x6342
10/23/2019	10,335.00	Delta Risk	x6342
10/23/2019	4,944.58	Discovery Benefits	x6342
10/23/2019	550.60	Discovery Benefits	x6342
10/23/2019	25.00	Discovery Benefits	x6342
10/23/2019	15.00	Discovery Benefits	x6342
10/24/2019	9.73	Discovery Benefits	x6342
10/25/2019	75.00	Discovery Benefits	x6342
10/25/2019	215.00	Discovery Benefits	x6342
10/25/2019	305.46	Discovery Benefits	x6342
10/25/2019	1,303.80	Discovery Benefits	x6342
10/28/2019	(26.00)	Discovery Benefits	x6342
10/28/2019	20.00	Discovery Benefits	x6342
10/28/2019	1,350.04	Discovery Benefits	x6342
10/28/2019	20.00	Discovery Benefits	x6342
10/29/2019	245.00	Discovery Benefits	x6342
10/29/2019	5.00	Discovery Benefits	x6342
10/29/2019	370.00	Discovery Benefits	x6342
10/29/2019	5.00	Discovery Benefits	x6342
10/29/2019	9,770.39	CDW	x6342
10/29/2019	1,876.88	Third Party Consultant	x6342
10/30/2019	518.51	Discovery Benefits	x6342
10/31/2019	11,000.00	Third Party Consultant	x6342
10/31/2019	100.00	Discovery Benefits	x6342
10/29/2019	1,475.38	Third Party Consultant	x6342
10/31/2019	1,667.78	Third Party Consultant	x6342
10/31/2019	10,219.19	Singapore Service Fee Funding	x6342
10/30/2019	50,233.99	Paylocity	x6342
10/30/2019	311,831.36	Paylocity	x6342
10/31/2019	1,974.64	Paylocity	x6342
10/30/2019	110,396.48	Paylocity	x6342
10/29/2019	771.24	Standard Insurance	x6342
10/29/2019	4,459.96	Standard Insurance	x6342
10/30/2019	33,670.47	Charles Schwab	x6342
10/30/2019	1,227.80	Paylocity	x6342
10/21/2019	59,268.63	Blue Cross Blue Shield of Texas	x7513
10/25/2019	152,732.21	Blue Cross Blue Shield of Texas	x7513
810,393.55			

* Payments to Discovery Benefits are for employee Flexible Spending Account (FSA) reimbursement

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS

Reporting Period: 10/16/2019 - 10/31/2019

Income Statement ⁽¹⁾
(in thousands)

	<u>Date</u>
	<u>10/16/19 - 10/31/19</u>
Revenue:	
Management fees	975
Shared services fees	283
Other income	99
Total operating revenue	<u>1,357</u>
Operating expenses:	
Compensation and Benefits	997
Professional services	256
Investment research and consulting	10
Depreciation expense ⁽³⁾	82
Other operating expenses	201
Total operating expenses	<u>1,545</u>
Operating income/(loss)	<u>(188)</u>
Other income/expense:	
Interest income	250
Interest expense	(107)
Re-org related expenses ⁽²⁾	-
Other income/expense	32
Total other income/expense	<u>175</u>
Net realized gains on investments	339
Net change in unrealized gains/(losses) of investments ⁽⁴⁾	2,654
	<u>2,993</u>
Net earnings/(losses) from equity method investees ⁽⁴⁾	<u>(20)</u>
Net income/(loss)	<u><u>\$ 2,959</u></u>

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date. No additional amounts were accrued between October 16, 2019 and October 31, 2019.

(3) Includes full month of depreciation as depreciation is run monthly at month end. Estimated pro-rated depreciation October 16, 2019 to October 31, 2019 is \$42k.

(4) Mark to market gains/(losses) on investments include normal course pricing updates for publicly traded securities and other positions with readily available market price information. Limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

Case 19-34054-sgj11 Doc 405 Filed 01/27/20 Entered 01/27/20 16:49:55 Page 6 of 11

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019Balance Sheet
(in thousands)

	<u>Date</u>
	10/31/2019
Assets	
Cash and cash equivalents	\$ 2,286
Investments, at fair value ⁽³⁾	359,448
Equity method investees ⁽³⁾	37,508
Management and incentive fee receivable	3,202
Fixed assets, net	3,672
Due from affiliates ⁽¹⁾	152,124
Other assets	11,261
Total assets	\$ 569,501
Liabilities and Partners' Capital	
Pre-petition accounts payable ⁽⁴⁾	\$ 1,135
Post-petition accounts payable ⁽⁴⁾	102
Secured debt	35,510
Accrued expenses and other liabilities ⁽⁴⁾	59,184
Accrued re-organization related fees ⁽⁵⁾	-
Claim accrual ⁽²⁾	73,997
Partners' capital	399,573
Total liabilities and partners' capital	\$ 569,501

⁽¹⁾ Includes various notes receivable at carrying value (fv undetermined).⁽²⁾ Uncontested portion of claim less applicable offsets. Potential for additional liability based on future events.⁽³⁾ Mark to market gains/(losses) on investments include normal course pricing updates for publicly traded securities and other positions with readily available market price information. Limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.⁽⁵⁾ Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed prior to the petition date. No additional amounts were accrued between October 16, 2019 and October 31, 2019

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS

Reporting Period: 10/16/2019 - 10/31/2019

Form 6123 (Rev. 06-97)		Department of the Treasury-Internal Revenue Service Verification of Fiduciary's Federal Tax Deposit	
Do not attach this Notice to your Return			
TO:	District Director, Internal Revenue Service Attn: Chief, Special Procedures Function		
FROM:	Name of Taxpayer: Highland Capital Management, L.P. Taxpayer Address: 300 Crescent Ct. Ste. 700, Dallas, TX 75201		
The following information is to notify you of Federal tax deposit(s)(FTD) as required by the United States Bankruptcy Court (complete sections 1 and/or 2 as appropriate):			
Section 1 Taxes Reported on Form 941, Employer's Quarterly Federal Tax Return	Form 941 Federal Tax Deposit (FTD) Information For the payroll period from <u>10/16/2019</u> to <u>10/31/2019</u> Payroll date <u>10/31/2019</u> Gross wages paid to employees \$ <u>557,425.72</u> Income tax withheld \$ <u>105,313.71</u> Social Security (Employer's plus Employee's share of Social Security Tax) \$ <u>36,603.10</u> Tax Deposited \$ <u>141,916.84</u> Date Deposited <u>10/31/2019</u>		
Section 2 Taxes Reported on Form 940, Employer's Annual Federal Unemployment Tax Return	Form 940 Federal Tax Deposit (FTD) Information For the payroll period from <u>10/16/2019</u> to <u>10/31/2019</u> Gross wages paid to employees \$ <u>557,425.72</u> Tax Deposited \$ <u>574.93</u> Date Deposited <u>10/31/2019</u>		
Certification (Certification is limited to receipt or electronic transmittal of deposit only) This certifies receipt or electronic transmittal of deposits described below for Federal taxes as defined in Circular E, Employer's Tax Guide (Publication 15)			
Deposit Method <input type="checkbox"/> Form 8109/8109B Federal Tax Deposit (FTD) coupon <input checked="" type="checkbox"/> 9 Electronic Federal Tax Payment System (EFTPS) Deposit			
Amount (Form 941) 141,916.84	Date of Deposit 10/31/2019	EFTPS acknowledgment number or Form 8109 FTD received by: EFT_COMM01_1034607	
Amount (Form 940) 574.93	Date of Deposit 10/31/2019	EFTPS acknowledgment number or Form 8109 FTD received by: EFT_COMM01_1051577-1-2944938	
Depositor's Employer Identification Number: 75-2716725		Name and Address of Bank Compass Bank	
Under penalties of perjury, I certify that the above federal tax deposit information is true and correct			
Signed:		Date:	
Name and Title (print or type)			

Cat. #43099Z

Form 6123 (rev. 06-97)

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019

Post-Petition Accounts Payable Aging as of 10/31/2019

	0-30 days	31 - 60 days old	61 - 90 days old	91 + days old	Grand Total
Remaining Amount	\$ 102,132	\$ -	\$ -	\$ -	\$ 102,132

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019**Accounts Receivable Reconciliation**

	0 - 30 days old ⁽¹⁾	31 - 60 days old	61 - 90 days old	91 + days old net of uncollectable balances ⁽²⁾	Accounts Receivable (Net)
Management Fees	\$ 3,201,548	\$ -	\$ -	\$ -	\$ 3,201,548
Shared Services Fees ⁽³⁾	516,469	-	-	-	516,469
Expense Reimbursements ⁽³⁾	537,514	84,081	155,514	3,440,751	4,217,859
Total Receivable	\$ 4,255,531	\$ 84,081	\$ 155,514	\$ 3,440,751	\$ 7,935,877

⁽¹⁾ All management fees and shared services fees are considered to be 0-30 days old as all such receivables are paid current per their investment management contracts.

⁽²⁾ Receivables shown above are net of certain potentially uncollectible amounts. The net balances also do not include amounts that have been reserved against in prior years relating to management fees, shared services, and fund reimbursements, including but not limited to amounts paid on other entities' behalf with respect to legal related expenses as well as receivable escrowed distributions from fund holdings.

⁽³⁾ Accounts Receivable from Shared Services Fees and Expense Reimbursements is included in the Other Assets line item on the Balance Sheet (see MOR-3).

In re: Highland Capital Management, L.P.

Case No. 19-12239-CSS
Reporting Period: 10/16/2019 - 10/31/2019

DEBTOR QUESTIONNAIRE

Must be completed each month		Yes	No
1	Have any assets been sold or transferred outside the normal course of business this reporting period? If yes, provide an explanation below.		x
2	Have any funds been disbursed from any account other than a debtor in possession account this reporting period? If yes, provide an explanation below. \$598,419 of funds transferred from non-debtor in possession accounts, while those accounts were in process of being opened. These debtor in possession accounts were opened following month end and are being used for operating activities as of the date of this submission.	x	
3	Have all postpetition tax returns been timely filed? If no, provide an explanation below.	x	
4	Are workers compensation, general liability and other necessary insurance coverages in effect? If no, provide an explanation below.	x	
5	Has any bank account been opened during the reporting period? If yes, provide documentation identifying the opened account(s). If an investment account has been opened provide the required documentation pursuant to the Delaware Local Rule 4001-3. Following month end, The Debtor opened three bank accounts at East West Bank. On November 21, 2019, the Debtor closed accounts ending in x735, x668 x130 and x513.		x

Highland Capital Management, L.P.

Case No. 19-12129-GS
Reporting Period: 10/26/2019 - 10/31/2019Next 13 Weeks Commencing October 16, 2019
(in thousands)

	Actual ⁽¹⁾	Actual	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
	10/16	10/23	10/28	11/4	11/11	11/18	11/25	12/2	12/9	12/16	12/23	12/30	1/6	1/13	1/20
Week beginning															
Beginning unrestricted operating cash	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137
Management fees	\$ -	\$ -	\$ 1,600	\$ 1,600	\$ -	\$ 1,847	\$ 27	\$ 672	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,176
Shared medical costs	-	-	105	433	-	-	-	415	-	-	-	-	-	-	2,165
Fund management costs	-	-	14	356	-	-	-	-	-	-	-	-	-	-	320
Interest on notes receivable	-	-	-	-	-	-	-	-	-	-	-	-	1,155	-	1,155
Other	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Management fees and other related receipts	\$ -	\$ -	\$ 1,729	\$ 1,795	\$ -	\$ 1,847	\$ 27	\$ 1,097	\$ -	\$ -	\$ -	\$ -	\$ 1,155	\$ 633	\$ 8,336
Commissions and benefits	-	-	(79)	(261)	-	(633)	-	(633)	-	(633)	-	(633)	-	(633)	(3,189)
Payroll, benefits, and other operating costs ⁽²⁾	\$ -	\$ -	\$ (79)	\$ (261)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ (3,189)
Total compensation and benefits	\$ -	\$ -	\$ (79)	\$ (261)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ -	\$ (633)	\$ (3,189)
General overhead	-	-	-	(779)	-	-	(73)	-	-	-	(73)	-	-	-	(273)
Overhead - equity incentive award	-	-	-	(779)	-	-	(73)	-	-	-	(73)	-	-	-	(273)
General overhead - related entities (pre-portfolio)	-	-	(3)	(23)	(23)	(23)	(23)	(20)	(30)	(20)	(26)	(23)	(23)	(23)	(23)
General overhead - post-portfolio periods	-	-	(16)	(256)	(299)	(299)	(299)	(259)	(259)	(259)	(259)	(259)	(259)	(259)	(259)
Logistics and other fees	-	-	(219)	(11)	-	(33)	-	(33)	-	(33)	-	(33)	-	(33)	(105)
Total general overhead	\$ -	\$ -	\$ (347)	\$ (410)	\$ (439)	\$ (439)	\$ (409)	\$ (270)	\$ (270)	\$ (260)	\$ (315)	\$ (270)	\$ (270)	\$ (270)	\$ (4,475)
Net change in cash due to operating activity	\$ -	\$ -	\$ (217)	\$ 597	\$ 1,528	\$ (909)	\$ 1,579	\$ (916)	\$ 1,317	\$ (903)	\$ (906)	\$ (445)	\$ 254	\$ 274	\$ 3,185
Receivables ⁽³⁾ - accounts receivable for receivables	-	-	-	-	-	(1,433)	(267)	(265)	(269)	(267)	(267)	(267)	(269)	(269)	(3,500)
Debtors' receivables	-	-	-	-	-	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(300)	(3,500)
Debtors' receivables - related entities (pre-portfolio)	-	-	-	-	-	(140)	(140)	(140)	(140)	(140)	(140)	(140)	(140)	(140)	(1,752)
Compensation and benefits	-	-	-	-	-	(73)	(144)	(18)	(18)	(18)	(18)	(18)	(18)	(18)	(200)
Commodity fees	-	-	-	-	-	(73)	(144)	(18)	(18)	(18)	(18)	(18)	(18)	(18)	(200)
US Trust	-	-	-	-	-	(73)	(144)	(18)	(18)	(18)	(18)	(18)	(18)	(18)	(200)
Total receivables	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (2,073)	\$ (372)	\$ (372)	\$ (372)	\$ (372)	\$ (372)	\$ (372)	\$ (372)	\$ (372)	\$ (4,572)
Net change in cash from operating activities	\$ -	\$ -	\$ (217)	\$ 597	\$ 1,528	\$ (909)	\$ (916)	\$ 1,317	\$ (903)	\$ (906)	\$ (445)	\$ 254	\$ 274	\$ 274	\$ 3,185
Investments cash flows (including cash on hand)	-	-	-	-	-	1,330	-	1,067	-	1,301	-	-	-	-	3,618
Short-term investments	-	-	-	-	-	1,330	-	1,067	-	1,301	-	-	-	-	3,618
Third party fund capital call payments	-	-	-	-	-	(1,400)	-	-	-	-	-	-	-	-	(1,400)
Third party fund capital call payments	-	-	-	-	-	400	-	-	-	-	-	-	-	-	400
Multi-Sector Credit Fund	-	-	-	-	-	(300)	-	-	-	(300)	-	-	-	-	(2,000)
Highland Capital Management L.P. Advisor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(2,000)
Proceeds from investments	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(2,000)
Net change in cash due to investing activities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing activities	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ending unrestricted operating cash	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137	\$ 2,137
Professional fees expense account ⁽⁴⁾	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Pre-allocated professional fees expense beginning balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,077	\$ 2,449	\$ 2,420	\$ 3,150	\$ 1,528	\$ 1,900	\$ 2,371	\$ -	\$ -
Interest on operating account	-	-	-	-	-	-	2,077	372	372	372	372	642	372	372	4,928
Payments to professionals	-	-	-	-	-	-	-	-	-	-	(1,240)	-	-	-	(1,240)
Debtors' receivables	-	-	-	-	-	-	-	-	-	-	(330)	-	-	-	(330)
Compensation and benefits	-	-	-	-	-	-	-	-	-	-	(33)	-	-	-	(33)
Commodity fees	-	-	-	-	-	-	-	-	-	-	(73)	-	-	-	(73)
US Trust	-	-	-	-	-	-	-	-	-	-	(73)	-	-	-	(73)
Total additions to professional fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (2,033)	\$ -	\$ -	\$ -	\$ (2,255)
Pre-allocated professional fees expense ending balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,077	\$ 2,449	\$ 2,420	\$ 3,150	\$ 1,528	\$ 1,900	\$ 2,371	\$ 2,643	\$ 2,643

(1) Beginning unrestricted operating cash represents the bank cash balance of the Debtor's operating account as of the Petition Date.

(2) Budgetary activity includes monthly health insurance premiums and from the operating account to the insurance account. It also includes the insurance account monthly premiums and are used to pay claims and administrative expenses of the self-insured plan.

(3) Pre-allocated amounts that are added from the operating account to the professional fees expense account weekly, then the professional fees expense account is used to pay pre-allocated amounts 80% of amount first beginning in December 2019, except for the Debtor's FICA, which is paid 100%.

EXHIBIT 89

**Monthly Operating Report
ACCRUAL BASIS**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054
JUDGE:	Stacey Jernigan

**UNITED STATES BANKRUPTCY COURT
NORTHERN & EASTERN DISTRICTS OF TEXAS
REGION 6**

MONTHLY OPERATING REPORT

MONTH ENDING: November 2019
MONTH YEAR

IN ACCORDANCE WITH TITLE 28, SECTION 1746, OF THE UNITED STATES CODE, I DECLARE UNDER PENALTY OF PERJURY THAT I HAVE EXAMINED THE FOLLOWING MONTHLY OPERATING REPORT (ACCRUAL BASIS-1 THROUGH ACCRUAL BASIS-7) AND THE ACCOMPANYING ATTACHMENTS AND, TO THE BEST OF MY KNOWLEDGE, THESE DOCUMENTS ARE TRUE, CORRECT, AND COMPLETE. DECLARATION OF THE PREPARER (OTHER THAN RESPONSIBLE PARTY) IS BASED ON ALL INFORMATION OF WHICH PREPARER HAS ANY KNOWLEDGE.

RESPONSIBLE PARTY:


ORIGINAL SIGNATURE OF RESPONSIBLE PARTY

Chief Restructuring Officer

TITLE

Bradley Sharp

PRINTED NAME OF RESPONSIBLE PARTY

12-31-19

DATE

PREPARER:


ORIGINAL SIGNATURE OF PREPARER

Chief Financial Officer

TITLE

Frank Waterhouse

PRINTED NAME OF PREPARER

12.31.19

DATE

Exhibit 21

193405419123100000000002

Monthly Operating Report
ACCRUAL BASIS-1

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Comparative Balance Sheet

(in thousands)

	<u>10/15/2019</u>	<u>10/31/2019</u>	<u>11/30/2019</u>
Assets			
Cash and cash equivalents	2,529	2,286	6,343
Investments, at fair value ⁽³⁾	232,620	235,144	233,776
Equity method investees ⁽³⁾	161,819	161,813	175,381
Management and incentive fee receivable	2,579	3,202	1,223
Fixed assets, net	3,754	3,672	3,601
Due from affiliates ⁽¹⁾	151,901	152,124	152,523
Other assets	11,311	11,260	10,621
Total assets	<u>\$ 566,513</u>	<u>\$ 569,501</u>	<u>\$ 583,468</u>
Liabilities and Partners' Capital			
Pre-petition accounts payable ⁽⁴⁾	1,176	1,135	1,250
Post-petition accounts payable ⁽⁴⁾	-	102	236
Secured debt:			
Frontier	5,195	5,195	5,195
Jefferies	30,328	30,315	30,268
Accrued expenses and other liabilities ⁽⁴⁾	59,203	59,184	60,848
Accrued re-organization related fees ⁽⁵⁾	-	-	-
Claim accrual ⁽²⁾	73,997	73,997	73,997
Partners' capital	396,614	399,573	411,674
Total liabilities and partners' capita	<u>\$ 566,513</u>	<u>\$ 569,501</u>	<u>\$ 583,468</u>

⁽¹⁾ Includes various notes receivable at carrying value (fv undetermined).

⁽²⁾ Uncontested portion of claim less applicable offsets. Potential for additional liability based on future events. No interest has been accrued beyond petition date.

⁽³⁾ Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

⁽⁴⁾ Note on accruals: expenses recorded in Accounts Payable and Accrued Expenses and Other Liabilities reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices. For balance sheet dates other than the Petition Date, amounts include both pre-petition and post-petition liabilities.

⁽⁵⁾ Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed prior to the petition date. No additional amounts were accrued between October 16, 2019 and November 30, 2019

Monthly Operating Report
ACCRUAL BASIS-2

CASE NAME:	Highland Capital Management, LP
CASE NUMBER:	19-12239-CSS

Income Statement ¹

(in thousands)

	Date	Month ended	Filing to Date
	10/16/19 - 10/31/19	11/30/2019	
Revenue:			
Management fees	975	1,638	2,613
Shared services fees	283	709	992
Other income	99	418	517
Total operating revenue	1,357	2,765	4,122
Operating expenses:			
Compensation and Benefits	997	1,936	2,932
Professional services	256	90	346
Investment research and consulting	10	34	44
Marketing and advertising expense	-	35	35
Depreciation expense	82	82	164
Other operating expenses	201	480	681
Total operating expenses	1,545	2,657	4,202
Operating income/(loss)	(188)	108	(80)
Other income/expense:			
Interest income	250	484	735
Interest expense	(107)	(103)	(211)
Re-org related expenses ⁽²⁾	-	-	-
Other income/expense	32	-	32
Total other income/expense	175	381	555
Net realized gains/(losses) on investments	339	279	618
Net change in unrealized gains/(losses) of investments ⁽³⁾	2,654	(2,004)	650
	2,993	(1,725)	1,268
Net earnings/(losses) from equity method investees ⁽³⁾	(20)	13,468	13,448
Net income/(loss)	\$ 2,959	\$ 12,232	\$ 15,192

(1) Note on accruals: expenses recorded in the Income Statement reflect invoices recorded through accounts payable, legal invoice accruals, and normal course operating accruals, but do not reflect estimates for other incurred, but not yet received invoices.

(2) Debtor funded various retainers totaling \$790k prior to the petition date, which were entirely expensed as of the petition date. No additional amounts were accrued between October 16, 2019 and November 30, 2019

(3) Mark to market gains/(losses) on investments include pricing updates for publicly traded securities and other positions with readily available market price information. Limited partnership interests normally marked to a NAV statement have not been updated as of period end as statements are generally available on a one-month lag.

**Monthly Operating Report
ACCRUAL BASIS-3A**

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

CASH RECEIPTS AND DISBURSEMENTS	OCTOBER	NOVEMBER	DECEMBER	QUARTER
1. CASH - BEGINNING OF MONTH ²	\$2,554,230	\$2,286,160		\$2,554,230
RECEIPTS FROM OPERATIONS				
2. OTHER OPERATING RECEIPTS	\$6,911.97	\$972,733		\$979,644
3. MANAGEMENT FEES AND OTHER RELATED RECEIPTS	\$15,000.00	\$1,764,749		\$1,779,749
COLLECTION OF ACCOUNTS RECEIVABLE				
4. PREPETITION	\$46,425	\$2,962,108		\$3,008,534
5. POSTPETITION ¹	-	-		-
6. TOTAL OPERATING RECEIPTS	\$68,337	\$5,699,590		\$5,767,928
NON-OPERATING RECEIPTS				
7. THIRD PARTY FUND ACTUAL/EXPECTED DISTRIBUTIONS	\$79,266	\$320,836		\$400,103
8. DIVS, PAYDOWNS, MISC FROM INVESTMENT ASSETS	\$410,189	\$501,983		\$912,172
9. OTHER (ATTACH LIST)				\$0
10. TOTAL NON-OPERATING RECEIPTS	\$489,456	\$822,820		\$1,312,275
11. TOTAL RECEIPTS	\$557,793	\$6,522,410		\$7,080,203
12. TOTAL CASH AVAILABLE	\$3,112,023	\$8,808,570		
OPERATING DISBURSEMENTS				
13. PAYROLL, BENEFITS, AND TAXES + EXP REIMB	\$737,588	\$961,282		\$1,698,869
14. SINGAPORE SERVICE FEES	\$34,633	\$32,555		\$67,189
15. HCM LATIN AMERICA		\$100,000		\$100,000
16. THIRD PARTY FUND CAPITAL CALL OBLIGATION		\$967,555		\$967,555
17. UTILITIES				\$0
18. INSURANCE				\$0
19. INVENTORY PURCHASES				\$0
20. VEHICLE EXPENSES				\$0
21. TRAVEL				\$0
22. ENTERTAINMENT				\$0
23. REPAIRS & MAINTENANCE				\$0
24. SUPPLIES				\$0
25. ADVERTISING				\$0
26. OTHER (ATTACH LIST)	\$53,642	\$404,581		\$458,223
27. TOTAL OPERATING DISBURSEMENTS	\$825,863	\$2,465,973		\$3,291,836
REORGANIZATION EXPENSES				
28. PROFESSIONAL FEES				\$0
29. U.S. TRUSTEE FEES				\$0
30. OTHER (ATTACH LIST)				\$0
31. TOTAL REORGANIZATION EXPENSES	\$0	\$0		\$0
32. TOTAL DISBURSEMENTS	\$825,863	\$2,465,973		\$3,291,836
33. NET CASH FLOW	(\$268,070)	\$4,056,437		\$3,788,367
34. CASH - END OF MONTH	\$2,286,160	\$6,342,598		\$6,342,598

1 All postpetition receipts are included in line 3, Management Fees and Other Related Receipts.

2 Beginning cash in October represents the bank balance as of the filing date, while the cash amount shown on the balance sheet includes any outstanding checks.

Case 19-34054-sgj11 Doc 289 Filed 12/31/19 Entered 12/31/19 13:34:55 Page 5 of 9

Monthly Operating Report
ACCRUAL BASIS-3B

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

OPERATING DISBURSMENTS - OTHER

Date	Amount	Vendor
11/1/2019	\$ 155,983	Crescent TC Invest
11/1/2019	26,667	Third Party Consultant
11/1/2019	13,636	Third Party Consultant
11/8/2019	33,007	Platinum Parking
11/8/2019	1,053	Gold's Gym International
11/12/2019	1,525	MicroTel
11/15/2019	1,951	Compass Bank Operating
11/18/2019	2,047	Zayo
11/20/2019	2,894	Third Party Consultant
11/25/2019	24,232	Coleman Research Group, Inc.
11/26/2019	3,092	Canteen Vending
11/26/2019	925	UPS Small Package
11/26/2019	671	SolarWinds
11/26/2019	7,995	Intralinks Inc
11/26/2019	56,522	Houlihan Lokey Financial Advisors
11/26/2019	9,259	Willis of Texas, Inc.
11/26/2019	8,846	GrubHub for Work
11/29/2019	31,894	Third Party Consultant
11/29/2019	11,000	Third Party Consultant
11/29/2019	11,382	Verity Group
	\$ 404,581	

Monthly Operating Report
ACCRUAL BASIS-4

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MGMT FEE RECEIVABLE AGING ²	SCHEDULE AMOUNT	October	November	December
1. 0-30	\$ 2,578,744	\$ 3,201,548	\$ 1,222,880	
2. 31-60		\$0		
3. 61-90		\$0		
4. 91+		-		
5. TOTAL MGMT FEE RECEIVABLE	\$ 2,578,744	\$ 3,201,548	\$ 1,222,880	\$0
6. AMOUNT CONSIDERED UNCOLLECTIBLE				
7. MGMT FEE RECEIVABLE (NET)	\$ 2,578,744	\$ 3,201,548	\$ 1,222,880	\$0

AGING OF POSTPETITION TAXES AND PAYABLES			MONTH: November 2019		
TAXES PAYABLE	0-30 DAYS	31-60 DAYS	61-90 DAYS	91+ DAYS	TOTAL
1. FEDERAL					\$0
2. STATE					\$0
3. LOCAL					\$0
4. OTHER (ATTACH LIST)					\$0
5. TOTAL TAXES PAYABLE	\$0	\$0	\$0	\$0	\$0
6. ACCOUNTS PAYABLE	\$215,777	\$20,059			\$235,836

STATUS OF POSTPETITION TAXES ¹		MONTH: November 2019		
FEDERAL	BEGINNING TAX LIABILITY	AMOUNT WITHHELD AND/OR ACCRUED	AMOUNT PAID	ENDING TAX LIABILITY
1. WITHHOLDING				\$0
2. FICA-EMPLOYEE				\$0
3. FICA-EMPLOYER				\$0
4. UNEMPLOYMENT				\$0
5. INCOME				\$0
6. OTHER (ATTACH LIST)				\$0
7. TOTAL FEDERAL TAXES	\$0	\$0	\$0	\$0
STATE AND LOCAL				
8. WITHHOLDING				\$0
9. SALES				\$0
10. EXCISE				\$0
11. UNEMPLOYMENT				\$0
12. REAL PROPERTY	\$ 16,472	\$0	\$0	\$16,472
13. PERSONAL PROPERTY				\$0
14. OTHER (ATTACH LIST)				\$0
15. TOTAL STATE & LOCAL	\$16,472	\$0	\$0	\$16,472
16. TOTAL TAXES	\$16,472	\$0	\$0	\$16,472

1 The Debtor funds all state and federal employment taxes to Paylocity, who files all required federal and state related employment reports and withholdings.

2 Aging based on when management fee is due and payable.

Case 19-34054-sgj11 Doc 289 Filed 12/31/19 Entered 12/31/19 13:34:55 Page 7 of 9

Monthly Operating Report ACCRUAL BASIS-5																																																																																							
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¹ For Compass account x6342, funds transferred in December such that only sufficient cash to cover outstanding checks remains																																																																																							

Monthly Operating Report
ACCRUAL BASIS-6

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: November 2019

PAYMENTS TO INSIDERS AND PROFESSIONALS

INSIDERS				
	NAME	TYPE OF PAYMENT	AMOUNT PAID	TOTAL PAID TO DATE
1	Frank Waterhouse	Salary	\$29,167	\$43,750
2	Frank Waterhouse	Expense Reimbursement	\$339	\$506
3	Scott Ellington	Salary	\$37,500	\$56,250
4	Scott Ellington	Expense Reimbursement	\$84	\$2,010
5	James Dondero	Salary	\$46,875	\$70,313
6	James Dondero	Expense Reimbursement ¹	\$11,255	\$15,269
7	Thomas Surgent	Salary	\$33,333	\$50,000
8	Thomas Surgent	Expense Reimbursement	\$224	\$248
9	Trey Parker	Salary	\$29,167	\$43,750
10	Trey Parker	Expense Reimbursement	\$207	\$425
TOTAL PAYMENTS TO INSIDERS			\$188,151	\$282,519

¹ The total amount of reimbursements also included \$83,358 for use of the credit card by the Debtor for office related expenses such as subscriptions, employee lunches, vending supplies, IT equipment/software, employee gifts/awards, training, postage and charitable donations.

PROFESSIONALS ²					
	NAME	DATE OF COURT ORDER AUTHORIZING PAYMENT	AMOUNT APPROVED	AMOUNT PAID	TOTAL PAID TO DATE
1.					
2.					
3.					
4.					
5.					
6.	TOTAL PAYMENTS TO PROFESSIONALS			\$0	\$0

² Does not include payments to ordinary course professionals.

POSTPETITION STATUS OF SECURED NOTES, LEASES PAYABLE AND ADEQUATE PROTECTION PAYMENTS

	NAME OF CREDITOR	SCHEDULED MONTHLY PAYMENTS DUE	AMOUNTS PAID DURING MONTH	TOTAL UNPAID POSTPETITION
1.	Crescent TC Investors LP (rent portion only)	130,364	130,364	-
2.				
3.				
4.				
5.				
6.	TOTAL	130,364	\$130,364	\$0

Monthly Operating Report
ACCRUAL BASIS-7

CASE NAME:	Highland Capital Management
CASE NUMBER:	19-34054

MONTH: November 2019

QUESTIONNAIRE

	YES	NO
1. HAVE ANY ASSETS BEEN SOLD OR TRANSFERRED OUTSIDE THE NORMAL COURSE OF BUSINESS THIS REPORTING PERIOD?		x
2. HAVE ANY FUNDS BEEN DISBURSED FROM ANY ACCOUNT OTHER THAN A DEBTOR IN POSSESSION ACCOUNT?	x	
3. ARE ANY POSTPETITION RECEIVABLES (ACCOUNTS, NOTES, OR LOANS) DUE FROM RELATED PARTIES?	x	
4. HAVE ANY PAYMENTS BEEN MADE ON PREPETITION LIABILITIES THIS REPORTING PERIOD?	x	
5. HAVE ANY POSTPETITION LOANS BEEN RECEIVED BY THE DEBTOR FROM ANY PARTY?		x
6. ARE ANY POSTPETITION PAYROLL TAXES PAST DUE?		x
7. ARE ANY POSTPETITION STATE OR FEDERAL INCOME TAXES PAST DUE?		x
8. ARE ANY POSTPETITION REAL ESTATE TAXES PAST DUE?		x
9. ARE ANY OTHER POSTPETITION TAXES PAST DUE?		x
10. ARE ANY AMOUNTS OWED TO POSTPETITION CREDITORS DELINQUENT?		x
11. HAVE ANY PREPETITION TAXES BEEN PAID DURING THE REPORTING PERIOD?		x
12. ARE ANY WAGE PAYMENTS PAST DUE?		x

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "YES," PROVIDE A DETAILED EXPLANATION OF EACH ITEM. ATTACH ADDITIONAL SHEETS IF NECESSARY.

2 \$1,206,592 of funds paid from non-debtor in possession accounts, while those accounts were in the process of being opened.

3 Debtor generates fee income and other receipts from various related parties in normal course, see cash management motion for further discussion.

4 Payments have been made on prepetition liabilities, as approved in the critical vendor motion.

INSURANCE

	YES	NO
1. ARE WORKER'S COMPENSATION, GENERAL LIABILITY AND OTHER NECESSARY INSURANCE COVERAGES IN EFFECT?	x	
2. ARE ALL PREMIUM PAYMENTS PAID CURRENT?	x	
3. PLEASE ITEMIZE POLICIES BELOW.		

IF THE ANSWER TO ANY OF THE ABOVE QUESTIONS IS "NO," OR IF ANY POLICIES HAVE BEEN CANCELLED OR NOT RENEWED DURING THIS REPORTING PERIOD, PROVIDE AN EXPLANATION BELOW. ATTACH ADDITIONAL SHEETS IF NECESSARY.

INSTALLMENT PAYMENTS			
TYPE OF POLICY	CARRIER	PERIOD COVERED	PAYMENT AMOUNT & FREQUENCY

EXHIBIT 90

EXHIBIT C

LIQUIDATION ANALYSIS/FINANCIAL PROJECTIONS

Highland Capital Management, L.P.
Disclaimer For Financial Projections

This document includes financial projections for July 2020 through December 2022 (the “Projections”) for Highland Capital Management, L.P. (“Company”). These Projections have been prepared by DSI with input from management at the Company. The historical information utilized in these Projections has not been audited or reviewed for accuracy by DSI.

This Memorandum includes certain statements, estimates and forecasts provided by the Company with respect to the Company’s anticipated future performance. These estimates and forecasts contain significant elements of subjective judgment and analysis that may or may not prove to be accurate or correct. There can be no assurance that these statements, estimates and forecasts will be attained and actual outcomes and results may differ materially from what is estimated or forecast herein.

These Projections should not be regarded as a representation of DSI that the projected results will be achieved.

Management may update or supplement these Projections in the future, however, DSI expressly disclaims any obligation to update its report.

These Projections were not prepared with a view toward compliance with published guidelines of the Securities and Exchange Commission or the American Institute of Certified Public Accountants regarding historical financial statements, projections or forecasts.

Highland Capital Management, L.P.
Statement of Assumptions

- A. Plan effective date is January 31, 2021.
- B. All investment assets are sold by December 31, 2022.
- C. All demand notes are collected in the year 2021.
- D. All notes receivable with maturity dates beyond 12/31/2022 are sold in Q4 2022; in the interim interest income and principal payments are collected as they become due.
- E. Fixed assets used in daily business operations are sold in February 2021.
- F. Accrual for employee bonuses as of January 2021 are reversed and not paid.
- G. All Management advisory or shared service contracts are terminated on their terms by the effective date or shortly thereafter.
- H. Post-effective date, the reorganized Debtor would retain three HCMLP employees as contractors to help monetize the remaining assets.
- I. Litigation Trustee budget is \$6,500,000.
- J. Unrealized gains or losses are not recorded on a monthly basis; all gains or losses are recorded as realized gains or losses upon sale of asset.
- K. Plan does not provide for payment of interest to Class 8 holders of general unsecured claims, as set forth in the Plan. If holders of general unsecured claims receive 100% of their allowed claims, they would then be entitled to receive interest at the federal judgement rate, prior to any funds being available for claims or interest of junior priority.
- L. Plan assumes zero allowed claims for UBS, IFA, the HarbourVest entities (collectively "HV") and Hunter Mountain Investment Trust ("HM").
- M. Claim amounts listed in Plan vs. Liquidation schedule are subject to change; claim amounts in Class 8 assume \$0 for UBS, IFA, HM and HV.
Assumes RCP claims will offset against HCMLP's interest in fund and will not be paid from Debtor assets
- N. With the exception of Class 2 - Frontier, Classes 1-7 will be paid in full within 30 days of effective date.
- O. Class 7 payout limited to 85% of each individual creditor claim or in the aggregate \$13.15 million. Plan currently projects Class 7 payout of \$9.96 million.
- P. See below for Class 8 estimated payout schedule; payout is subject to certain assets being monetized by payout date:
 - o By September 30, 2021 - \$50,000,000
 - o By March 31, 2022 – additional \$50,000,000
 - o By June 30, 2022 – additional \$25,000,000
 - o All remaining proceeds are assumed to be paid out on or soon after all remaining assets are monetized.

Highland Capital Management, L.P.
Plan Analysis Vs. Liquidation Analysis
(US \$000's)

	Plan Analysis	Liquidation Analysis
Estimated cash on hand at 1/31/2020	\$ 25,076	\$ 25,076
Estimated proceeds from monetization of assets [1][2]	190,445	149,197
Estimated expenses through final distribution[1][3]	(33,642)	(36,232)
Total estimated \$ available for distribution	181,879	138,042
Less: Claims paid in full		
Unclassified [4]	(1,078)	(1,078)
Administrative claims [5]	(10,574)	(10,574)
Class 1 - Jefferies Secured Claim	-	-
Class 2 - Frontier Secured Claim [6]	(5,463)	(5,463)
Class 3 - Other Secured Claims	(551)	(551)
Class 4 – Priority Non-Tax Claims	(16)	(16)
Class 5 - Retained Employee Claims	-	-
Class 6 - PTO Claims	-	-
Class 7 – Convenience Claims [7][8][9]	(10,255)	-
Subtotal	(27,937)	(17,682)
Estimated amount remaining for distribution to general unsecured claims	153,942	120,359
Class 8 – General Unsecured Claims [8][10]	176,049	192,258
Subtotal	176,049	192,258
% Distribution to general unsecured claims	87.44%	62.60%
Estimated amount remaining for distribution	-	-
Class 9 – Subordinated Claims	no distribution	no distribution
Class 10 – Class B/C Limited Partnership Interests	no distribution	no distribution
Class 11 – Class A Limited Partnership Interest	no distribution	no distribution

Footnotes:

[1] Assumes chapter 7 Trustee will not be able to achieve same sales proceeds as Claimant Trustee

Assumes Chapter 7 Trustee engages new professionals to help liquidate assets

[2] Sale of investment assets, sale of fixed assets, collection of accounts receivable and interest receivable

[3] Estimated expenses through final distribution exclude non-cash expenses:

Depreciation of \$462 thousand in 2021

[4] Unclassified claims include payments for priority tax claims and settlements with previously approved by the Bankruptcy Court

[5] Represents \$4.7 million in unpaid professional fees and \$4.5 million in timing of payments to vendors

[6] Debtor will pay all unpaid interest estimated at \$253 thousand of Frontier on effective date and continue to pay interest quarterly at 5.25% until Frontier's collateral is sold

[7] Claims payout limited to 85% of each individual creditor claim or limited to a total class payout of \$13.15 million

[8] Class 7 includes \$1.1 million estimate for aggregate contract rejections damage and Class 8 includes \$1.4 million for contract rejection damages

[9] Assumes 3 claimants with allowed claims less than \$2.5 million opt into Class 7 along with claims of Senior Employees

[10] Class estimates \$0 allowed claim for the following creditors: IFA, HV, HM and UBS; assumes RCP claims offset against HCMLP interest in RCP fund

Notes:

All claim amounts are estimated as of November 20, 2020 and subject to change

Highland Capital Management, L.P.
Balance Sheet
(US \$000's)

	Actual Jun-20	Actual Sep-20	Forecast ---> Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Assets											
Cash and Cash Equivalents	\$ 14,994	\$ 5,888	\$ 28,342	\$ 4,934	\$ 96,913	\$ 90,428	\$ 106,803	\$ 52,322	\$ 23,641	\$ 21,344	\$ -
Other Current Assets	13,182	13,651	10,559	9,629	7,746	7,329	5,396	6,054	6,723	7,406	-
Investment Assets	320,912	305,961	261,333	258,042	133,026	81,793	54,159	54,159	54,159	54,159	-
Net Fixed Assets	3,055	2,823	2,592	1,348	-	-	-	-	-	-	-
TOTAL ASSETS	\$ 352,142	\$ 328,323	\$ 302,826	\$ 273,952	\$ 237,684	\$ 179,550	\$ 166,358	\$ 112,535	\$ 84,523	\$ 82,910	\$ -
Liabilities											
Post-petition Liabilities	\$ 26,226	\$ 19,138	\$ 19,280	\$ 2,891	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Pre-petition Liabilities	126,365	126,343	121,950	-	-	-	-	-	-	-	-
Claims											
Unclassified	-	-	-	-	-	-	-	-	-	-	-
Class 1 – Jefferies Secured Claim	-	-	-	-	-	-	-	-	-	-	-
Class 2 - Frontier Secured Claim	-	-	-	5,210	-	-	-	-	-	-	-
Class 3 - Other Secured Claims	-	-	-	-	-	-	-	-	-	-	-
Class 4 – Priority Non-Tax Claims	-	-	-	-	-	-	-	-	-	-	-
Class 5 – Retained Employee Claims	-	-	-	-	-	-	-	-	-	-	-
Class 6 - PTO Claims	-	-	-	-	-	-	-	-	-	-	-
Class 7 – Convenience Claims	-	-	-	-	-	-	-	-	-	-	-
Class 8 – General Unsecured Claims	-	-	-	176,049	176,049	126,049	126,049	76,049	51,049	51,049	22,107
Class 9 – Subordinated Claims	-	-	-	-	-	-	-	-	-	-	-
Class 10 – Class B/C Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Class 11 – Class A Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Claim Payable	126,365	126,343	121,950	181,259	176,049	126,049	126,049	76,049	51,049	51,049	22,107
TOTAL LIABILITIES	\$ 152,591	\$ 145,481	\$ 141,230	\$ 184,150	\$ 176,049	\$ 126,049	\$ 126,049	\$ 76,049	\$ 51,049	\$ 51,049	\$ 22,107
Partners' Capital	199,551	182,842	161,596	89,802	61,635	53,501	40,309	36,486	33,473	31,860	(22,107)
TOTAL LIABILITIES AND PARTNERS' CAPITAL	\$ 352,142	\$ 328,323	\$ 302,826	\$ 273,952	\$ 237,684	\$ 179,550	\$ 166,358	\$ 112,535	\$ 84,523	\$ 82,910	\$ -

Highland Capital Management, L.P.
Profit/Loss
(US \$000's)

	Actual Jan 2020 to June 2020 Total	Actual 3 month ended Sept 2020	Forecast ---> 3 month ended Dec 2020	Total 2020	3 month ended Mar 2021	3 month ended Jun 2021	3 month ended Sept 2021	3 month ended Dec 2021	Total 2021
Revenue									
Management Fees	\$ 6,572	\$ 1,949	\$ 2,651	\$ 11,173	\$ 779	\$ -	\$ -	\$ -	\$ 779
Shared Service Fees	7,672	3,765	3,788	15,225	1,263	-	-	-	1,263
Other Income	3,126	538	340	4,004	113	-	-	-	113
Total revenue	\$ 17,370	\$ 6,252	\$ 6,779	\$ 30,401	\$ 2,154	\$ -	\$ -	\$ -	\$ 2,154
Operating Expenses [1]	13,328	9,171	9,079	31,579	8,428	1,646	1,807	2,655	14,536
Income/(loss) From Operations	\$ 4,042	\$ (2,918)	\$ (2,301)	\$ (1,177)	\$ (6,274)	\$ (1,646)	\$ (1,807)	\$ (2,655)	\$ (12,381)
Professional Fees	17,522	7,707	7,741	32,971	5,450	5,058	2,048	1,605	14,160
Other Income/(Expenses) [2]	2,302	1,518	1,057	4,878	(59,016)	573	423	423	(57,598)
Operating Gain/(Loss)	\$ (11,178)	\$ (9,107)	\$ (8,985)	\$ (29,270)	\$ (70,741)	\$ (6,130)	\$ (3,432)	\$ (3,837)	\$ (84,139)
Realized and Unrealized Gain/(Loss)									
Other Realized Gains/(Loss)	-	-	-	-	(763)	522	-	-	(241)
Net Realized Gain/(Loss) on Sale of Investment	(28,418)	1,549	(12,167)	(39,036)	(290)	19	(4,702)	(8,006)	(12,979)
Net Change in Unrealized Gain/(Loss) of Investments	(29,929)	(7,450)	-	(37,380)	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	(94)	(94)	-	(22,578)	-	(1,349)	(23,927)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	(80,782)	(1,700)	-	(82,482)	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ (139,129)	\$ (7,601)	\$ (12,262)	\$ (158,992)	\$ (1,053)	\$ (22,037)	\$ (4,702)	\$ (9,355)	\$ (37,147)
Net Income	\$ (150,307)	\$ (16,708)	\$ (21,247)	\$ (188,262)	\$ (71,794)	\$ (28,167)	\$ (8,134)	\$ (13,192)	\$ (121,287)

Footnotes:

[1] Operating expenses include an adjustment in January 2021 to account for expenses that have not been accrued or paid prior to effective date.

[2] Other income and expenses of \$61.2 million in January 2021 includes:

[a] \$77.7 million was expensed to record for the increase of allowed claims.

[b] Income of \$15.8 million for the accrued, but unpaid payroll liability related to the Debtor's deferred bonus programs amount written-off.

Highland Capital Management, L.P.
Profit/Loss
(US \$000's)

	Forecast ---->					
	3 month ended Mar 2022	3 month ended Jun 2022	3 month ended Sept 2022	3 month ended Dec 2022	Total 2022	Plan
Revenue						
Management Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 779
Shared Service Fees	-	-	-	-	-	1,263
Other Income	-	-	-	-	-	113
Total revenue	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,154
Operating Expenses	1,443	643	758	1,088	3,932	18,468
Income/(loss) From Operations	\$ (1,443)	\$ (643)	\$ (758)	\$ (1,088)	\$ (3,932)	\$ (16,314)
Professional Fees	2,788	2,788	1,288	1,288	8,153	22,313
Other Income/(Expenses)	408	419	434	184	1,444	(56,154)
Operating Gain/(Loss)	\$ (3,823)	\$ (3,013)	\$ (1,613)	\$ (2,193)	\$ (10,641)	\$ (94,780)
Realized and Unrealized Gain/(Loss)						
Other Realized Gains/(Loss)	-	-	-	(51,775)	(51,775)	(52,016)
Net Realized Gain/(Loss) on Sale of Investment	-	-	-	-	-	(12,979)
Net Change in Unrealized Gain/(Loss) of Investments	-	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	(23,927)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ -	\$ -	\$ -	\$ (51,775)	\$ (51,775)	\$ (88,922)
Net Income	\$ (3,823)	\$ (3,013)	\$ (1,613)	\$ (53,967)	\$ (62,415)	\$ (183,702)

Highland Capital Management, L.P.**Cash Flow Indirect****(US \$000's)**

	Forecast ---->									
	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Net (Loss) Income	\$ (16,708)	\$ (21,247)	\$ (71,794)	\$ (28,167)	\$ (8,134)	\$ (13,192)	\$ (3,823)	\$ (3,013)	\$ (1,613)	\$ (53,967)
Cash Flow from Operating Activity										
(Increase) / Decrease in Cash										
Depreciation and amortization	231	231	231	231	-	-	-	-	-	-
Other realized (gain)/ loss	-	-	763	(522)	-	-	-	-	-	51,775
Investment realized (gain)/ loss	(1,549)	12,262	290	22,559	4,702	9,355	-	-	-	-
Unrealized (gain) / loss	(9,150)	-	-	-	-	-	-	-	-	-
(Increase) Decrease in Current Assets	(470)	3,092	930	1,884	417	1,933	(658)	(669)	(684)	2,010
Increase (Decrease) in Current Liabilities	(7,110)	(4,251)	(54,172)	(2,891)	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Operating Activities	(34,757)	(9,913)	(123,752)	(6,907)	(3,015)	(1,904)	(4,481)	(3,681)	(2,297)	(182)
Cash Flow From Investing Activities										
Proceeds from Sale of Fixed Assets	-	-	250	1,639	-	-	-	-	-	-
Proceeds from Investment Assets	25,650	32,366	3,002	102,457	46,531	18,278	-	-	-	7,780
Net Cash Increase / (Decrease) - Investing Activities	25,650	32,366	3,252	104,096	46,531	18,278	-	-	-	7,780
Cash Flow from Financing Activities										
Claims payable	-	-	(73,997)	-	-	-	-	-	-	-
Claim reclasses/(paid)	-	-	181,259	(5,210)	(50,000)	-	(50,000)	(25,000)	-	(28,942)
Maple Avenue Holdings	-	-	(4,975)	-	-	-	-	-	-	-
Frontier Note	-	-	(5,195)	-	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Financing Activities	-	-	97,092	(5,210)	(50,000)	-	(50,000)	(25,000)	-	(28,942)
Net Change in Cash	\$ (9,107)	\$ 22,454	\$ (23,408)	\$ 91,979	\$ (6,484)	\$ 16,374	\$ (54,481)	\$ (28,681)	\$ (2,297)	\$ (21,344)
Beginning Cash	14,994	5,888	28,342	4,934	96,913	90,428	106,803	52,322	23,641	21,344
Ending Cash	\$ 5,887	\$ 28,342	\$ 4,934	\$ 96,913	\$ 90,428	\$ 106,803	\$ 52,322	\$ 23,641	\$ 21,344	\$ -

EXHIBIT 91

Highland Capital Management, L.P.
Disclaimer For Financial Projections

This document includes financial projections for July 2020 through December 2022 (the “Projections”) for Highland Capital Management, L.P. (“Company”). These Projections have been prepared by DSI with input from management at the Company. The historical information utilized in these Projections has not been audited or reviewed for accuracy by DSI.

This document includes certain statements, estimates and forecasts provided by the Company with respect to the Company’s anticipated future performance. These estimates and forecasts contain significant elements of subjective judgment and analysis that may or may not prove to be accurate or correct. There can be no assurance that these statements, estimates and forecasts will be attained and actual outcomes and results may differ materially from what is estimated or forecast herein.

These Projections should not be regarded as a representation of DSI that the projected results will be achieved.

Management may update or supplement these Projections in the future, however, DSI expressly disclaims any obligation to update its report.

These Projections were not prepared with a view toward compliance with published guidelines of the Securities and Exchange Commission or the American Institute of Certified Public Accountants regarding historical financial statements, projections or forecasts.

Exhibit 24

1/28/2021

Appx. 01507

Highland Capital Management, L.P.
Statement of Assumptions

- A. Plan effective date is March 1, 2021
- B. All investment assets are sold by December 31, 2022.
- C. All demand notes are collected in the year 2021; 3 term notes defaulted and have been demanded based on default provisions; payment estimated in 2021
- D. Dugaboy term note with maturity date beyond 12/31/2022 are sold in Q1 2022; in the interim interest income and principal payments are not collected due to prepayment on note
- E. Fixed assets currently used in daily operations are sold in June 2021 for \$0
- F. Highland bonus plan has been terminated in accordance with its terms. Accrual for employee bonuses as of January 2021 are reversed and not paid.
- G. All Management advisory or shared service contracts are terminated on their terms by the effective date or shortly thereafter
- H. Post-effective date, the reorganized Debtor would retain up to ten HCMLP employees (or hire similar employees) to help monetize the remaining assets.
 - I. Litigation Trustee budget is \$6,500,000.
- J. Unrealized gains or losses are not recorded on a monthly basis; all gains or losses are recorded as realized gains or losses upon sale of asset.
- K. Plan does not provide for payment of interest to Class 8 holders of general unsecured claims, as set forth in the Plan. If holders of general unsecured claims receive 100% of their allowed claims, they would then be entitled to receive interest at the federal judgement rate, prior to any funds being available for claims or interest of junior priority.
- L. Plan assumes zero allowed claims for IFA and Hunter Mountain Investment Trust ("HM"); UBS claim based on voting amount of \$94.8 million, but Debtor and UBS have agreed in principal regarding UBS's allowed claim
- M. Claim amounts listed in Plan vs. Liquidation schedule are subject to change; claim amounts in Class 8 assume \$0 for IFA and HM, \$94.8 million for UBS and \$45 million HV. Assumes RCP claims will offset against HCMLP's interest in fund and will not be paid from Debtor assets
- N. With the exception of Class 2 - Frontier, Classes 1-7 will be paid in full within 30 days of effective date.
- O. Class 7 payout limited to 85% of each individual creditor claim or in the aggregate \$13.15 million. Plan currently projects Class 7 payout of \$10.3 million.
- P. See below for Class 8 estimated payout schedule; payout is subject to certain assets being monetized by payout date (no Plan requirement to do so):
 - o By September 30, 2021 - \$50,000,000
 - o By March 31, 2022 – additional \$50,000,000
 - o By June 30, 2022 – additional \$25,000,000
 - o All remaining proceeds are assumed to be paid out on or soon after all remaining assets are monetized.
- Q. Assumptions subject to revision based on business decision and performance of the business

1/28/2021

Highland Capital Management, L.P.
Plan Analysis Vs. Liquidation Analysis
(US \$000's)

	Plan Analysis	Liquidation Analysis
Estimated cash on hand at 1/31/2020	\$ 24,290	\$ 24,290
Estimated proceeds from monetization of assets [1][2]	257,941	191,946
Estimated expenses through final distribution[1][3]	(59,573)	(41,488)
Total estimated \$ available for distribution	222,658	174,748
Less: Claims paid in full		
Unclassified [4]	(1,080)	(1,080)
Administrative claims [5]	(10,574)	(10,574)
Class 1 - Jefferies Secured Claim	-	-
Class 2 - Frontier Secured Claim [6]	(5,781)	(5,781)
Class 3 - Other Secured Claims	(62)	(62)
Class 4 – Priority Non-Tax Claims	(16)	(16)
Class 5 - Retained Employee Claims	-	-
Class 6 - PTO Claims [5]	-	-
Class 7 – Convenience Claims [7][8]	(10,280)	-
Subtotal	(27,793)	(17,514)
Estimated amount remaining for distribution to general unsecured claims	194,865	157,235
% Distribution to Class 7 (Class 7 claims included in Class 8 in Liquidation scenario)	85.00%	0.00%
Class 8 – General Unsecured Claims [8][10]	313,588	326,468
Subtotal	313,588	326,468
% Distribution to general unsecured claims	62.14%	48.16%
Estimated amount remaining for distribution	-	-
Class 9 – Subordinated Claims	<i>no distribution</i>	<i>no distribution</i>
Class 10 – Class B/C Limited Partnership Interests	<i>no distribution</i>	<i>no distribution</i>
Class 11 – Class A Limited Partnership Interest	<i>no distribution</i>	<i>no distribution</i>

Footnotes:

[1] Assumes chapter 7 Trustee will not be able to achieve same sales proceeds as Claimant Trustee

Assumes Chapter 7 Trustee engages new professionals to help liquidate assets and terminates any management agreements with funds or CLOS

[2] Sale of investment assets, sale of fixed assets, collection of accounts receivable and interest receivable; Plan includes revenue from managing CLOs

[3] Estimated expenses through final distribution exclude non-cash expenses:

Depreciation of \$462 thousand in 2021; Bad debt of \$124K in 2021

[4] Unclassified claims include payments for priority tax claims and settlements with previously approved by the Bankruptcy Court

[5] Represents \$4.7 million in unpaid professional fees, \$4.5 million in timing of payments to vendors and \$1.2 million to pay PTO

[6] Debtor will pay all unpaid interest estimated at \$253 thousand of Frontier on effective date and continue to pay interest quarterly at 5.25% until Frontier's collateral is sold

[7] Claims payout limited to 85% of each individual creditor claim or limited to a total class payout of \$13.15 million

[8] Plan: Class 7 includes \$1.2 million estimate for aggregate contract rejections damage; Liquidation Class 8 includes \$2.0 million for estimated rejection damages

[10] Class estimates \$0 allowed claim for the following creditors: IFA and HM; assumes RCP claims offset against HCMLP interest in RCP fund

UBS claim included at voting amount of \$94.8 million. Debtor and UBS have agreed in principal regarding UBS's allowed claim

Notes:

All claim amounts are estimated as of January 26, 2020 and subject to change

1/28/2021

Appx. 01509

Highland Capital Management, L.P.
Balance Sheet
(US \$000's)

	Actual Jun-20	Actual Sep-20	Forecast ---> Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Assets											
Cash and Cash Equivalents	\$ 14,994	\$ 5,888	\$ 31,047	\$ 10,328	\$ 40,063	\$ 42,833	\$ 135,137	\$ 80,733	\$ 72,238	\$ 69,368	\$ -
Other Current Assets	13,182	13,651	13,784	15,172	14,671	14,220	9,943	8,268	8,417	8,567	-
Investment Assets	320,912	305,961	283,812	280,946	233,234	171,174	47,503	47,503	25,888	25,888	-
Net Fixed Assets	3,055	2,823	2,592	1,348	-	-	-	-	-	-	-
TOTAL ASSETS	\$ 352,142	\$ 328,323	\$ 331,235	\$ 307,793	\$ 287,968	\$ 228,227	\$ 192,583	\$ 136,504	\$ 106,542	\$ 103,823	\$ -
Liabilities											
Post-petition Liabilities	\$ 142,730	\$ 135,597	\$ 131,230	\$ 12,891	\$ 10,249	\$ 10,503	\$ -	\$ -	\$ -	\$ -	\$ -
Pre-petition Liabilities	9,861	9,884	10,000	-	-	-	-	-	-	-	-
Claims											
Unclassified	-	-	-	-	-	-	-	-	-	-	-
Class 1 – Jefferies Secured Claim	-	-	-	-	-	-	-	-	-	-	-
Class 2 - Frontier Secured Claim	-	-	-	5,528	-	-	-	-	-	-	-
Class 3 - Other Secured Claims	-	-	-	-	-	-	-	-	-	-	-
Class 4 – Priority Non-Tax Claims	-	-	-	-	-	-	-	-	-	-	-
Class 5 – Retained Employee Claims	-	-	-	-	-	-	-	-	-	-	-
Class 6 - PTO Claims	-	-	-	-	-	-	-	-	-	-	-
Class 7 – Convenience Claims	-	-	-	-	-	-	-	-	-	-	-
Class 8 – General Unsecured Claims	-	-	-	313,588	313,588	263,588	263,588	213,588	188,588	188,588	118,723
Class 9 – Subordinated Claims	-	-	-	-	-	-	-	-	-	-	-
Class 10 – Class B/C Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Class 11 – Class A Limited Partnership Interests	-	-	-	-	-	-	-	-	-	-	-
Claim Payable	9,861	9,884	10,000	319,115	313,588	263,588	263,588	213,588	188,588	188,588	118,723
TOTAL LIABILITIES	\$ 152,591	\$ 145,481	\$ 141,230	\$ 332,007	\$ 323,836	\$ 274,091	\$ 263,588	\$ 213,588	\$ 188,588	\$ 188,588	\$ 118,723
Partners' Capital	199,551	182,842	190,005	(24,214)	(35,868)	(45,863)	(71,004)	(77,083)	(82,045)	(84,764)	(118,722)
TOTAL LIABILITIES AND PARTNERS' CAPITAL	\$ 352,142	\$ 328,323	\$ 331,235	\$ 307,793	\$ 287,968	\$ 228,227	\$ 192,583	\$ 136,504	\$ 106,543	\$ 103,823	\$ -

Highland Capital Management, L.P.**Profit/Loss****(US \$000's)**

	Actual Jan 2020 to June 2020 Total	Actual 3 month ended Sept 2020	Forecast ----> 3 month ended Dec 2020	Total 2020	3 month ended Mar 2021	3 month ended Jun 2021	3 month ended Sept 2021	3 month ended Dec 2021	Total 2021
Revenue									
Management Fees	\$ 6,572	\$ 1,949	\$ 2,804	\$ 11,325	\$ 1,329	\$ 856	\$ 856	\$ 856	\$ 3,897
Shared Service Fees	7,672	3,765	3,788	15,225	1,373	45	45	-	1,463
Other Income	3,126	538	340	4,004	316	274	-	-	591
Total revenue	\$ 17,370	\$ 6,252	\$ 6,931	\$ 30,554	\$ 3,018	\$ 1,176	\$ 901	\$ 856	\$ 5,951
Operating Expenses [1]	13,328	9,171	9,399	31,899	12,168	4,897	3,973	3,333	24,371
Income/(loss) From Operations	\$ 4,042	\$ (2,918)	\$ (2,468)	\$ (1,345)	\$ (9,149)	\$ (3,722)	\$ (3,072)	\$ (2,477)	\$ (18,420)
Professional Fees	17,522	7,707	8,351	33,581	7,478	6,583	2,268	1,810	18,138
Other Income/(Expenses) [2]	2,302	1,518	1,059	4,879	(196,410)	326	(93)	29	(196,149)
Operating Gain/(Loss)	\$ (11,178)	\$ (9,107)	\$ (9,761)	\$ (30,046)	\$ (213,037)	\$ (9,978)	\$ (5,433)	\$ (4,259)	\$ (232,707)
Realized and Unrealized Gain/(Loss)									
Other Realized Gains/(Loss)	-	-	-	-	(1,013)	522	-	-	(491)
Net Realized Gain/(Loss) on Sale of Investment	(28,418)	1,549	(8,850)	(35,719)	(168)	(2,198)	(4,563)	(7,581)	(14,510)
Net Change in Unrealized Gain/(Loss) of Investments	(29,929)	(7,450)	4,523	(32,857)	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	(364)	(364)	-	-	-	(13,301)	(13,301)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	(80,782)	(1,700)	-	(82,482)	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	\$ (139,129)	\$ (7,601)	\$ (4,692)	\$ (151,422)	\$ (1,182)	\$ (1,675)	\$ (4,563)	\$ (20,882)	\$ (28,302)
Net Income	\$ (150,307)	\$ (16,708)	\$ (14,453)	\$ (181,468)	\$ (214,219)	\$ (11,654)	\$ (9,996)	\$ (25,141)	\$ (261,009)

Footnotes:

[1] Operating expenses include an adjustment in January 2021 to account for expenses that have not been accrued or paid prior to effective date.

[2] Other income and expenses of \$197.3 million in Q1 2021 includes:

[a] \$209.7 million was expensed to record for the increase of allowed claims.

[b] Income of \$11.7 million for the accrued, but unpaid payroll liability related to the Debtor's deferred bonus programs amount written-off.

Highland Capital Management, L.P.**Profit/Loss****(US \$000's)**

	Forecast --->					
	3 month ended Mar 2022	3 month ended Jun 2022	3 month ended Sept 2022	3 month ended Dec 2022	Total 2022	Plan
Revenue						
Management Fees	\$ 580	\$ 580	\$ 580	\$ 580	\$ 2,318	\$ 6,215
Shared Service Fees	-	-	-	-	-	1,463
Other Income	-	-	-	-	-	591
Total revenue	<u>\$ 580</u>	<u>\$ 580</u>	<u>\$ 580</u>	<u>\$ 580</u>	<u>\$ 2,318</u>	<u>\$ 8,269</u>
Operating Expenses	3,635	2,679	1,739	6,425	14,478	38,849
Income/(loss) From Operations	<u>\$ (3,056)</u>	<u>\$ (2,099)</u>	<u>\$ (1,159)</u>	<u>\$ (5,846)</u>	<u>\$ (12,160)</u>	<u>\$ (30,580)</u>
Professional Fees	2,921	2,761	1,461	2,176	9,318	27,455
Other Income/(Expenses)	(103)	(101)	(100)	(350)	(654)	(196,803)
Operating Gain/(Loss)	<u>\$ (6,079)</u>	<u>\$ (4,961)</u>	<u>\$ (2,719)</u>	<u>\$ (8,371)</u>	<u>\$ (22,131)</u>	<u>\$ (254,838)</u>
Realized and Unrealized Gain/(Loss)						
Other Realized Gains/(Loss)	-	-	-	(25,587)	(25,587)	(26,078)
Net Realized Gain/(Loss) on Sale of Investment	-	-	-	-	-	(14,510)
Net Change in Unrealized Gain/(Loss) of Investments	-	-	-	-	-	-
Net Realized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	(13,301)
Net Change in Unrealized Gain /(Loss) from Equity Method Investees	-	-	-	-	-	-
Total Realized and Unrealized Gain/(Loss)	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (25,587)</u>	<u>\$ (25,587)</u>	<u>\$ (53,889)</u>
Net Income	<u><u>\$ (6,079)</u></u>	<u><u>\$ (4,961)</u></u>	<u><u>\$ (2,719)</u></u>	<u><u>\$ (33,958)</u></u>	<u><u>\$ (47,718)</u></u>	<u><u>\$ (308,727)</u></u>

Highland Capital Management, L.P.**Cash Flow Indirect****(US \$000's)**

Forecast ---->

	Sep-20	Dec-20	Mar-21	Jun-21	Sep-21	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22
Net (Loss) Income	\$ (16,708)	\$ (14,453)	\$ (214,219)	\$ (11,654)	\$ (9,996)	\$ (25,141)	\$ (6,079)	\$ (4,961)	\$ (2,719)	\$ (33,958)
Cash Flow from Operating Activity										
(Increase) / Decrease in Cash										
Depreciation and amortization	231	231	231	231	-	-	-	-	-	-
Other realized (gain)/ loss	-	-	1,013	(522)	-	-	-	-	-	25,587
Investment realized (gain)/ loss	(1,549)	9,214	168	2,198	4,563	20,882	-	-	-	-
Unrealized (gain) / loss	(9,150)	4,523	-	-	-	-	-	-	-	-
(Increase) Decrease in Current Assets	(470)	(133)	(1,388)	501	450	4,277	1,675	(149)	(150)	908
Increase (Decrease) in Current Liabilities	(7,110)	(4,251)	(44,172)	(2,643)	255	(10,503)	-	-	-	-
Net Cash Increase / (Decrease) - Operating Activities	(34,757)	(4,868)	(258,366)	(11,889)	(4,727)	(10,485)	(4,404)	(5,110)	(2,870)	(7,463)
Cash Flow From Investing Activities										
Proceeds from Sale of Fixed Assets	-	-	-	-	-	-	-	-	-	-
Proceeds from Investment Assets	25,650	30,027	2,698	47,152	57,498	102,788	-	21,616	-	7,960
Net Cash Increase / (Decrease) - Investing Activities	25,650	30,027	2,698	47,152	57,498	102,788	-	21,616	-	7,960
Cash Flow from Financing Activities										
Claims payable	-	-	(73,997)	-	-	-	-	-	-	-
Claim reclasses/(paid)	-	-	319,115	(5,528)	(50,000)	-	(50,000)	(25,000)	-	(69,865)
Maple Avenue Holdings	-	-	(4,975)	-	-	-	-	-	-	-
Frontier Note	-	-	(5,195)	-	-	-	-	-	-	-
Net Cash Increase / (Decrease) - Financing Activities	-	-	234,948	(5,528)	(50,000)	-	(50,000)	(25,000)	-	(69,865)
Net Change in Cash	\$ (9,107)	\$ 25,159	\$ (20,719)	\$ 29,735	\$ 2,770	\$ 92,303	\$ (54,404)	\$ (8,495)	\$ (2,870)	\$ (69,368)
Beginning Cash	14,994	5,888	31,047	10,328	40,063	42,833	135,137	80,733	72,238	69,368
Ending Cash	<u>\$ 5,888</u>	<u>\$ 31,047</u>	<u>\$ 10,328</u>	<u>\$ 40,063</u>	<u>\$ 42,833</u>	<u>\$ 135,137</u>	<u>\$ 80,733</u>	<u>\$ 72,238</u>	<u>\$ 69,368</u>	<u>\$ -</u>

1/28/2021

EXHIBIT 92

Engagement:	Highland Capital Management LP - 2017 Audit
Period end date:	12/31/2017
Audit unit:	Highland Capital Management LP - 2017 Audit-HQ
Associated Risks:	Risk of material misstatement in Other Assets
FSLI:	Other Assets
EGA title:	Test due from and notes receivable
Ref. no.:	3025-1510

Rollforward - Notes receivable

When more than one preparer was involved in the completion of this EGA, document the names of the team members involved and the procedures performed.

[Document the initials or names of team members and procedures performed (e.g., Jane Doe performed step a) below)]
Prepared by Hilda Garcia, PwC

Procedures	Results	Links
a) Obtain a rollforward schedule of notes receivable balances, agree balances and test mathematical accuracy.	<p><input checked="" type="checkbox"/> Obtained a rollforward schedule of notes receivable balances. Attached in tab 'Results Template' or provided link.</p> <p>Note that the team obtained the closing balances of notes and accounts receivable by account type/entity. Attached schedule in the <Detail> tab. Additionally, note that the due from receivables listing was target tested for accounts greater than \$10M and the remaining population was non-stat tested. Refer to selections made and testing performed in the < Results Template></p> <p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Agreed balances to prior period workpapers and closing balances to the general ledger, and</p> <p><input checked="" type="checkbox"/> No reconciling items noted, or</p> <p><input type="checkbox"/> Reconciling items are not significant or unusual (when considered both individually and in the aggregate); therefore no further testing performed, or</p> <p><i>[Document reconciling items noted and rationale for determination]</i></p> <p><input type="checkbox"/> Significant or unusual reconciling items noted; therefore performed further testing as follows:</p> <p><i>[Document reconciling items noted and testing performed or provide link]</i></p> <p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Tested mathematical accuracy of the rollforward schedule, as follows:</p> <p><i>[Document schedule name(s), details of testing performed or provide link to tickmarked schedule]</i></p> <p>Refer to the <Detail> tab for procedures performed.</p> <p><input checked="" type="checkbox"/> Verified spreadsheet formula.</p> <p><input type="checkbox"/> Manually added or recalculated.</p> <p><input type="checkbox"/> Application controls over related report tested.</p> <p><input type="checkbox"/> Other [Specify below].</p> <p><i>[Document details of testing, if not included in the linked schedule]</i></p>	

Rollforward - Notes receivable

b) Agree activity within the rollforward to testing performed.	<input type="checkbox"/> Not applicable. There was no current period activity, or <input checked="" type="checkbox"/> Agreed activity within the rollforward to testing performed in the following EGAs (check those that apply): <input checked="" type="checkbox"/> Total additions to testing performed in the EGA <i>Test additions - Notes receivable</i> . <input checked="" type="checkbox"/> Total payments to testing performed in the EGA <i>Test payments - Notes receivable</i> . The team tested additions and payments within this EGA. Refer to the subsequent tabs for procedures performed. <p style="text-align: center;">AND</p> <input checked="" type="checkbox"/> Obtained appropriate supporting documentation for any other adjustments within the rollforward, and: <input type="checkbox"/> Tested a selection of adjustments (test(s) added from Aura Tests of Details template), or <i>[Document other items tested and the details of work performed or provide link]</i> <input checked="" type="checkbox"/> Tested all adjustments. <i>[Document other items tested and the details of work performed or provide link]</i> The audit team tested all adjustments for notes selected for testing. Refer to the <Results Template> tab for testing performed.	Results Template
--	---	----------------------------------

Rollforward - Notes receivable

- c) Obtain detailed listing(s) of the ending balance of notes receivable by asset, agree balances and test mathematical accuracy.

Service Delivery Center activities:

Tests of Details

☐ Not applicable. The rollforward in procedure a) was performed at the individual asset level, or

☒ Obtained detailed listing(s) of the ending balance of notes receivable.

[Document details of accounts selected or provide link to detailed listing(s) obtained]

Refer to the <Results Template> tab for procedures performed. Additionally, note that the due from receivables listing was target tested for accounts greater than \$10M and the remaining population was non-stat tested. Refer to testing performed in the < Results Template>

[Results Template](#)

AND

☒ Agreed the total per the detailed listing to the ending balance per the rollforward, and:

☒ No reconciling items noted, or

☐ Reconciling items are not significant or unusual (when considered both individually and in the aggregate); therefore no further testing performed, or

[Document reconciling items noted and rationale for determination]

☐ Significant or unusual reconciling items noted; therefore performed further testing as follows:

[Document reconciling items noted and testing performed or provide link]

AND

☒ Tested mathematical accuracy of the detailed listing, as follows:

[Document schedule name(s), details of testing performed or provide link to tickmarked schedule]

☒ Verified spreadsheet formula.

☐ Manually added or recalculated.

☐ Application controls over related report tested.

☐ Other [Specify below].

[Document details of testing, if not included in the linked schedule]

- d) Define what constitutes an unexpected or unusual balance and scan the subledgers or detailed listing of ending balances of notes receivable by asset for unexpected (e.g. credit balances, large balances not confirmed, etc.) or unusual items.

☒ Defined what constitutes an unexpected or unusual balance, as follows:

[Define and document what constitutes an unexpected or unusual balance]

An unexpected or unusual balance is defined as anything that is not considered in Due from Affiliate, within the details. The engagement team performed a Credit Risk Analysis over the material balances within the <Detail> tab to ensure that there were no unexpected or unusual loans. Refer to the <Credit Risk Analysis> tab for the engagement team analysis over the related balances.

Rollforward - Notes receivable		
	<div>AND</div> <div><div><input checked="" type="checkbox"/> Scanned the subledgers or detailed listings noting the following:</div><div><div><input checked="" type="checkbox"/> No unexpected or unusual balances, or</div><div><input type="checkbox"/> Unusual or unexpected balances identified:</div></div><div><i>[Document details of unexpected or unusual balances identified and resolution]</i></div></div>	

Additional engagement specific procedures, if necessary	
Procedures	Results
<div>[Document engagement specific additional procedures, if necessary]</div> <div>N/A</div>	<div>[Document results of additional procedures]</div> <div>N/A</div>

HCMLP
Various Assets - Detail
12/31/2017
Prepared by Hilda Garcia, PwC

Note: The below detail is for the Due From and Notes Receivable FSLI's. The team tested 100% of the Notes Receivable balance and performed a target test in addition non-stat sample over the Due from Affiliate balance to ensure adequate coverage. Refer below for testing references.

LS →

Due from affiliates			
14010	CASH INTEREST RECEIVABLE	935,693	
14110	DIVIDENDS RECEIVABLE	23,760	
14030	INVESTMENT INTEREST RECEIVABLE	216,138	
14140	SHARED SVCS FEE RECVBL - PYXIS	207,501	
14142	SHARED SVCS FEE RECVBL - HCLH	6,020	
14145	SHARED SVCS FEE RECVBL - ACIS	337,643	
14146	SHARED SVCS FEE RECVBL - NEXPOINT	55,187	
14148	SHARED SVCS FEE RECVBL - RAND ADVISORS	2	
14149	SHARED SVCS FEE RECVBL - NREA	592,251	NS
14530	DUE FROM HIGHLAND CAPITAL MANAGEMENT SERVICES	14,122,352	TT
14531	DUE FROM HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS	4,895,468	NS
14532	DUE FROM NEXPOINT ADVISORS	29,721,919	TT
14533	DUE FROM HCRE PARTNERS	8,457,837	NS
14565	DUE FROM OTHER - TAX LOANS	15,728,031	TT
14575	DUE FROM HIGHLAND CAPITAL OF NEW YORK	4,519,542	
14580	DUE FROM NEXBANK	60,000	
14585	DUE FROM HUNTER MOUNTAIN INVESTMENT TRUST	60,663,612	TT
14595	DUE FROM HIGHLAND CAPITAL KOREA	2,320,798	
14750	LONG TERM NOTES RECEIVABLE	22,860,559	TT
Total		165,724,312	Rc

↓

SUMMARY	
	Rc
Total Due From	165,724,312
Target Test Count	5
Total Targeted	143,096,473
Total Non Stat	13,945,556
# of selections	3
Total Tested	157,042,029

TOD Form: Test Due from Affiliates

Interest Income Tested	
HCMSI	501,807
Dondero Tax Loan	266,997
Dugaboy	712,821
HCRE	284,231
Hunter Mountain	1,547,673
NexPoint	170,571
Total Tested	3,313,529

Tickmark Legend

- ^A Footed without exception.
Rc Recalculated amount. Refer to the respective cell's formula for further details.
LS Amount agrees to the lead schedule linked below.
Lead schedule - Assets
NS Amount was selected for Non-Statistical Sampling Testing. Refer to the Non-Stat template linked below for further information and to the <Results Template> tab for testing performed.
TOD Form: Test Due from Affiliates
TT Due from affiliate amount was selected for Target Testing. Refer to the Target Testing template linked below for further information and to the <Results Template> tab for testing performed.
TOD Form: Test Due from Affiliates
<PM Remaining balance is below performance materiality, waive further review.

Tickmark Legend

- Rc** Recalculated amount. Refer to the respective cell's formula for further details.
LS Agrees to the lead schedule linked below without exception.
Lead schedule - Assets
NS The
TOD Form: Test notes receivables, due from, and other assets
TT The

Appx. 01519

Highland Capital Management, L.P.
Credit Risk Analysis
12/31/2017
Prepared by Hilda Garcia, PwC

Note: The audit team performed a credit analysis for all material (above performance materiality) notes receivable in order to determine the nature and intent of each note as well as assess the ability of the payee to pay the note. Refer to the team's analysis below.

Account #	Counter Party	Amount	Interest Rate	Maturity Date	Nature	Recoverability
14530	Highland Capital Management Services (James Dondero majority owner)	14,122,352	2.75%	12/31/2047	Highland Capital Management Services is an S Corp that acts as a platform investment company for one-off investments. Loans are provided to this entity primarily in order to provide seed capital for new investments.	Based on our testing performed over this loan, the engagement team notes that all the previous loans issued to HCMSI have been restructured and consolidated into one loan with a maturity date of 12/31/2047 and a yearly installment payment plan. The audit team also vouched interest payments being made by the fund, which also signifies that they have the ability to continue to make their payments. As such, the team is comfortable that the fund will be able to pay the loan when it becomes due. Further note that HCM Services has also paid back \$6.1 M to HCMLP in principal payments for 2017 (vouched by engagement team) and paid off all the interest owed to the fund as of 12/31/2017. As the fund is showing an ability by continuing to make payments subsequent to year end and an installment payment plan has been implemented, the audit team is comfortable that the entity has the ability to pay down this loan when it becomes due. Furthermore, Jim Dondero owns more than 70% of this entity.
14531	Highland Capital Fund Advisors	4,895,468	2.62%	On demand but not before 5/31/2019	Loans are made to HCMF for the fund's operational purposes.	Per review of the audited HCMF financial statements, the engagement team notes that the fund is realizing profits and has a positive cash flow. Based on the team's going concern considerations for this fund, the expectation is that the fund will be in positive partners capital by the next fiscal year. Based on the profit and improving performance of the fund, the team is comfortable that they will be able to pay the loan when it becomes due.
14532	Nexpoint Advisors	29,721,919	6%	12/31/2047	Loans are made to Nexpoint for the fund's operational purposes.	Per review of the audited Nexpoint financial statements, the engagement team notes that the fund is realizing profits and has a positive cash flow. Based on the team's going concern considerations for this fund, the expectation is that the fund continue to recover from its negative partners' capital balance in the coming years as it continues to improve performance and does not over distribute partners' capital. The engagement team additionally notes that NPA has stopped waiving management fees in the current year to the BDC (Nexpoint Capital Strategies) which is expected to significantly increase their revenue for future period. Based on the profit and improving performance of the fund, the team is comfortable that they will be able to pay the loan installments as they become due.
14533	HCRE Partners (James Dondero)	8,457,837	Varies	On demand and 12/31/2047	HCRE Partners is a real estate investment entity that investments in opportunistic real estate investments and historically has realized substantial gains. Loans are provided to this entity primarily in order to provide seed capital for new investments. Note that 31% of this balance is due on demand. The remaining 69% is made up of a restructured loan that has a maturity date of 12/31/2047.	Per discussion with Dave Kios, HCMLP, the audit team notes that these loans are made at a high interest rate in order to encourage the fund to pay off the loan quickly. Based on our testing performed over this loan, the engagement team notes that the loans issues to HCRE went through a restructure in the current year. As such, 31% of the HCRE balance is due on demand and the remaining 69% is made up of a restructured loan that has a maturity date of 12/31/2047 and implements an installment plan over 30 years. The audit team also vouched interest and principal payments being made by the fund, which also signifies that they have the ability to continue to make their payments. As such, the team is comfortable that the fund will be able to pay the loan when it becomes due. Furthermore, Jim Dondero owns more than 70% of this entity.
14565	James Dondero	15,728,031	2.03%-2.25%	On demand and 12/31/2047	Related to Loans given to Limited Partners within the fund including James Dondero and Mark Okada in order to satisfy tax liability. Both have little basis in the fund, therefore a tax loan was given instead of an equity distribution. Note that James Dondero's portion was 92% of this balance and has a maturity date of 12/31/2047.	Per review of the Nexpoint Credit Strategy Fund form 130 filed with the SEC on 5/8/18, the engagement team notes that James Dondero owns 17.5% of this fund. Per review of the audited 12/31/17 financial statements for NHF, we note a total Net Asset Value of \$592,308,994, which leaves Dondero's ownership value in the fund at \$105,431,000. Additionally, the team notes that per NexPoint Residential Trust, Inc. form DEF 14A filed with the SEC on 4/11/2018, James Dondero also owns 19.98% of NexPoint Residential Trust. Per review of the audited 12/31/17 financial statements for NXPT, we note a total Net Asset Value of \$239,444,000 which leaves Dondero's ownership value in the fund at \$47,840,911. Based solely on these two investment values (\$153,271,912 value), not considering his extensive ownership of other assets, the team notes that Mr. Dondero has significant net worth in excess of the amount that is payable to HCMLP and therefore he has the ability to pay the loan. We note that because NHF is a publicly traded fund, he has the ability to sell his shares or transfer them back to HCMLP to satisfy the debt.
14750	Dugaboy (James Dondero)	22,860,559	3.26%	12/31/2047	The audit team notes that this note was primarily made in order to donate assets held by the fund to charity. Therefore, the fund sold assets in exchange for a Note Payable ultimately from Dugaboy, of which the primary beneficiary is James Dondero.	See above.
14585	Hunter Mountain Investment Trust (James Dondero)	60,663,612	2.61%	On demand	Note that Hunter Mountain purchased 99.5% of HCMLP. This loan was originally made for seller financing of the purchase of HCMLP as a part of the purchase price was paid in cash and a portion was financed as a note payable to HCMLP.	As Hunter Mountain owns 99.5% of HCMLP (verified through capital testing), the audit team notes that if Hunter Mountain did not have the ability to pay when the note became due, HCMLP could simply recover the receivable by netting off Hunter Mountain's capital balance. As such, the team is comfortable with the recoverability of this note. Additionally, the team notes that James Dondero is a significant owner of Hunter Mountain through the Crown Global Life Insurance. Therefore, the team notes that Mr. Dondero has significant net worth in excess of the amount that is payable to HCMLP and therefore he has the ability to pay the loan.

Tickmark Legend

A Agrees to the note agreements obtained within the <Results Template> tab for testing.

Appx. 01520

Rollforward schedule of notes receivable

G/L Account	Account Description	Amount per Client		Balance per Testing Performed	TM	Rc, imm Differences
Target Tested						
14532	DUE FROM NEXPOINT ADVISORS	29,721,919	<Detail>	29,721,919	B	-
14565	DUE FROM OTHER - TAX LOANS	15,728,031	<Detail>	15,728,031	C	0
14585	DUE FROM HUNTER MOUNTAIN INVESTMENT TRUST	60,663,612	<Detail>	60,663,612	<Due from Hunter Mountain>	(0)
14750	LONG TERM NOTES RECEIVABLE	22,860,559	<Detail>	22,860,559	<Dugaboy>	0
14530	DUE FROM HIGHLAND CAPITAL MANAGEMENT SERVICES	14,122,352	<Detail>	14,122,352	<Due from HCMSt>	0
	Total Amount Targeted	143,096,473		143,096,473		(0)
Non-Stat						
14149	SHARED SVCS FEE RECVBL - NREA	592,251	<Detail>	555,203	A	37,047.68 imm
14531	DUE FROM HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS	4,895,468	<Detail>	4,895,468	B	0
14533	DUE FROM HCRE PARTNERS	8,457,837	<Detail>	8,457,837	D	0
	Total Amount Non-Stat	13,945,556		13,908,508 Rc		37,047.73
		^		^		^
	Total Amount Tested	157,042,029.10		157,004,981.46 Rc		37,047.64 imm
		^		^		^

Tickmark Legend

Rc Amount recalculated. Refer to respective cell for formula detail.

imm Amount is immaterial, below SUM. Further testing is waived.

^ Amount footed. Refer to respective cell for formula detail.

PY Agrees to the prior year Asset lead schedule tested by the audit team without exception.

A The engagement team obtained comfort over the Shared Svcs Fee Receivable - NREA amount by performing procedures as documented in the EGA linked below. Per review of the procedures performed, the amount deemed reasonable. Waived further procedures.

Test shared services expenses

B The engagement team notes that the receivables above relate to amounts due from other audited HCM entities for loans provided by Highland Capital Management, L.P. ("HCMLP") to Highland Capital Management Fund Advisors ("HCMFA") or NexPoint Advisors ("NPA"). Further note the engagement team prepared and tested the Due to HCMLP rollforwards for both HCMFA and NPA, which correspond to the receivables amount above in conjunction with testing over those entities, without exception. Note that the following procedures were performed within the EGAs linked below.

	Amount	
Due from HCMFA	4,895,468	HCMFA - Understand debt agreements and test compliance
Due from Nexpoint	29,721,919	Nexpoint Advisor - Understand debt agreements and test compliance

C The engagement team notes that this amount is made up of 2 separate loans issued for tax purposes to two owners, James Dondero and Mark Okada, in 2016. We note that the James Dondero loans have been restructured and consolidated in the current year. Refer to the <Dondero Tax Loan> tab for testing and support obtained. The note receivable due from Mark Okada has not had any paydowns in the current year. As such Okada's note receivable balance as of 12/31/2017 is consistent with prior year.

Date	Lender	Interest Rate	Amount	
5/31/2017	HCM Dondero - Restructured	2.03%	14,478,031	<Dondero Tax Loan>
4/15/2016	HCM Okada	2.25%	1,250,000	04152016 HCM Okada \$1.25M
			15,728,031	Rc
			^	

D The engagement team notes that this amount is made up of 3 separate loans issued to HCRE. We note that one of the notes was restructured in the current year and an additional note has been issued. Refer below for support reconciliation and support obtained from Drew Wilson, HCM.

Date	Lender	Interest Rate	Amount	
11/27/2013	HCRE #9	2.03%	100,000	PY
5/31/2017	HCRE Restructured	8.00%	5,857,837	<HCRE Restructure>
10/12/2017	HCRE #10	8.00%	2,500,000	10122017 HCRE \$2.5M
			8,457,837	Rc
			^	

Appx. 01521

Due from Highland Capital Management Services
Account Detail - Year end Balances
12/31/2017
PBC, tickmarked by Hilda Garcia, PwC

Note: The engagement team notes that the individual notes issued to HCM Services in the prior years were restructured and consolidated on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollover from Drew Wilson, HCMLP. Refer below for the new restructured receivable rollover tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Closing Date 5/31/2017
Beginning Principle Balance \$ 20,247,628.02
Interest Rate 2.75%

Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
5/31/2017	-	-	-	20,247,628	-	20,247,628
6/23/2017	35,087	(35,087)	-	20,247,628	(950,130)	19,297,498
6/30/2017	10,177	-	10,177	19,297,498	-	19,297,498
7/6/2017	8,724	(18,901)	-	19,297,498	(888,395)	18,409,103
7/18/2017	16,644	(16,644)	-	18,409,103	(1,014,820)	17,394,283
7/31/2017	17,037	-	17,037	17,394,283	-	17,394,283
8/25/2017	32,763	(199,329)	(149,529)	17,394,283	(1,771,931)	15,622,352
8/31/2017	7,062	-	(142,467)	15,622,352	-	15,622,352
9/30/2017	35,311	-	(107,156)	15,622,352	-	15,622,352
10/31/2017	36,488	-	(70,668)	15,622,352	-	15,622,352
11/30/2017	35,311	-	(35,358)	15,622,352	-	15,622,352
12/21/2017	24,718	-	(10,640)	15,622,352	(1,500,000)	14,122,352
12/31/2017	10,640	-	(0)	14,122,352	-	14,122,352
Totals	269,961	(269,961)	(0)	14,122,352	(6,125,276)	14,122,352

Interest Income - 2017			
Date	Principle	Interest Rate	Interest Income
12/31/2016	21,650,000	2.26%	-
1/31/2017	21,650,000	2.26%	41,556
2/28/2017	21,650,000	2.26%	37,535
3/31/2017	21,800,000	2.78%	51,472
4/30/2017	21,800,000	2.78%	49,812
5/31/2017	21,800,000	2.78%	51,472
remaining			269,961
Total Interest			501,807

SUMMARY	
Ending Principal Bal	14,122,352 above
Interest Income Bal	269,961 <PM

Tickmark Legend

^ Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

Imm Amount is immaterial (below SUM). Therefore, further analysis is waived.

PWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

<PM Amount is below performance materiality, further testing waived.

A Agreed to the restructure Loan Agreement obtained from Drew Wilson, HCM, without exception. Refer to agreement linked below.

06/21/2017 HCMSI Loan Restructure

B Agreed to cash deposit in the Nexbank bank statement (account #: 1614130) for each respective month noted, without exception. Further testing waived. Refer below for breakdown of payment.

1) June				2) July			
	Cash Paid to HCM	1,508,389.34	B		Principle Payment	888,395	above
	Amount applicable to final payment of HCMSI #45	(523,172.90)	C		Interest Payment	18,901	above
	Applicable to Restructured Loan	985,216	Rc			907,296	B
	Principle Payment	950,130	above				
	Interest Payment	35,087	above				
3) July				4) August			
	Principle Payment	1,014,820	above		Principle Payment	1,771,931	above
	Interest Payment	16,644	above		Interest Payment	199,329	above
		1,031,464	B			1,971,260	B
5) December							
	Principle Payment	1,500,000	B				

C The engagement team notes that the following note receivable due from HCMSI was not included in the restructure and was completely paid off on 6/23/2017. No exceptions noted.

D The engagement team notes that the following notes were issued to HCMI during 2017. Note that the engagement team vouched the cash withdrawal to the March, June, and August 2017 Nexbank bank statement (account #: 1614130). Additionally, not that HCMSI #44 was included in the restructure of the HCMSI loans and HCMSI #45 was completely paid on the current year. No exception noted.

	Amount issued	Date issued	Date paid off	
HCMSI #44	150,000	3/31/2017	Restructured	Refer to Exhibit A in Restructured Loan Agreement in TM A
HCMSI #45	1,300,000	6/7/2017	6/23/2017	
HCMSI #46	500,000	8/31/2017	10/16/2017	

Appx. 01522

Due from James Dondero - Tax Loan
Account Detail - Year end Balances
12/31/2017

PBC, tickmarked by Hilda Garcia, PwC

Note: The engagement team notes that in prior year there were two loans given to James Dondero, HCM Owner, for tax purposes. The original loan balances were agreed to their note agreements in the prior year, without exception. Note that on 5/31/2017, the loans to James Dondero were restructured and consolidated into one note receivable balance. The audit team obtained the original restructured agreement and the debt rollover from Drew Wilson, HCMLP. Refer below for the new restructured receivable rollover tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Restructured Closing Date 5/31/2017 **A**
Total Commitment Restructured \$ 14,977,274 **A**
Rate 2.03% **A**

	Rc	B	Rc	Rc	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
5/31/2017	-	-	-	14,977,273.63	-	14,977,273.63
6/23/2017	19,158.60	-	19,158.60	14,977,273.63	-	14,977,273.63
6/30/2017	5,830.88	-	24,989.48	14,977,273.63	-	14,977,273.63
7/31/2017	25,822.46	-	50,811.94	14,977,273.63	-	14,977,273.63
8/31/2017	25,822.46	-	76,634.40	14,977,273.63	-	14,977,273.63
9/30/2017	24,989.48	-	101,623.88	14,977,273.63	-	14,977,273.63
10/31/2017	25,822.46	-	127,446.34	14,977,273.63	-	14,977,273.63
11/30/2017	24,989.48	-	152,435.82	14,977,273.63	-	14,977,273.63
12/31/2017	25,822.46	(178,258.28)	-	14,977,273.63	(499,242.47)	14,478,031.16
Totals	178,258.28	(178,258.28)	-	14,977,273.63	(499,242.47)	14,478,031.16

Interest Income - 2017			
Date	Principle	Interest Rate	Interest Income
12/31/2016	11,000,000	1.95%	
1/31/2017	11,000,000	1.95%	18,218
2/28/2017	11,000,000	1.95%	16,455
3/31/2017	11,000,000	1.95%	18,218
4/30/2017	11,000,000	1.95%	17,630
5/31/2017	11,000,000	1.95%	18,218
remaining			178,258
Total Interest			266,997

SUMMARY	
Ending Principal Bal	14,478,031
Interest Income Bal	178,258

Tickmark Legend

A Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

imm Amount is immaterial (below SUM). Therefore, further analysis is waived.

PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

<PM Amount is below performance materiality, further testing waived.

A Agreed to the restructure Loan Agreement obtained from Drew Wilson, HCM, without exception. Refer to agreement linked below.

[06212017 Dondero Loan Restructure](#)

B Agreed to cash deposit in the December Nexbank bank statement (account #: 1614130), without exception. Further testing waived. Note that the interest and principle payment were made in one lump sum payment of \$677,500.75. Refer below for breakdown of payment.

Principle Payment	499,242	above
Interest Payment	178,258	above
	677,501	B

Appx. 01523

Due from Get Good
Account Detail - Year end Balances
12/31/2017
PBC, tickmarked by Hilda Garcia, PwC

Note: The engagement team notes that this amount is related to a Note Receivable from Get Good original sold on 12/28/2016. Per review of the original purchase agreement, linked below, the audit team notes that HCMLP exchanged assets (held as a liability) for the right to receive 97.6835% of Get Good's Note receivable. We note that the original note receivable issued to Get Good Trust from the Dugaboy Trust was for \$24,268,621.69 on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollover from Drew Wilson, HCMLP. Refer below for the new restructured receivable rollover tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

GG and HCM PSA Crusader - Loan Fund - AAL 63370369 2 (2)
06212017 Dugaboy Interest Amendment

Original Note Date	12/28/2016	HCM	PYWP
Original Note Amount \$	23,817,640	\$ 23,265,904	
Restructured Closing Date	5/31/2017	97.6835%	A
Total Restructured Amount \$	24,268,622	\$ 23,706,439	
Rate	3.260%		

	Rc	B	Rc	Rc	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
5/31/2017	-	-	-	23,706,439.07	-	23,706,439.07
6/23/2017	48,698.87	-	48,698.87	23,706,439.07	-	23,706,439.07
6/30/2017	14,821.40	-	63,520.27	23,706,439.07	-	23,706,439.07
7/31/2017	65,637.61	-	129,157.88	23,706,439.07	-	23,706,439.07
8/4/2017	8,469.37	(441,854.32)	(304,227.07)	23,706,439.07	(845,879.76)	22,860,559.31
8/31/2017	55,128.40	-	(249,098.68)	22,860,559.31	-	22,860,559.31
9/30/2017	61,253.77	-	(187,844.90)	22,860,559.31	-	22,860,559.31
10/31/2017	63,295.57	-	(124,549.34)	22,860,559.31	-	22,860,559.31
11/30/2017	61,253.77	-	(63,295.57)	22,860,559.31	-	22,860,559.31
12/31/2017	63,295.57	-	-	22,860,559.31	-	22,860,559.31
Totals	441,854.32	(441,854.32)	-		(845,879.76)	22,860,559.31

Interest Income - 2017			
Date	Principle	Interest Rate	Interest Income
12/31/2016	23,817,640	2.75%	
1/31/2017	23,817,640	2.75%	55,629
2/28/2017	23,817,640	2.75%	50,245
3/31/2017	23,817,640	2.75%	55,629
4/30/2017	23,817,640	2.75%	53,834
5/31/2017	23,817,640	2.75%	55,629
remaining			441,854
Total Interest			712,821

SUMMARY	
Ending Principal Bal	22,860,559
Interest Income Bal	441,854

above
↓ <PM

Tickmark Legend

^A Footed without exception.

^{Rc} Recalculated amount. Refer to the respective cell's formula for further details.

^{imm} Amount is immaterial (below SUM). Therefore, further analysis is waived.

^{PYWP} Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

^{<PM} Amount is below performance materiality, further testing waived.

^A Agreed to the restructure Get Good Note Receivable Loan Agreement obtained from Drew Wilson, HCM, without exception. Refer to agreement linked below
06212017 Dugaboy Interest Amendment

^B Agreed to cash deposit in the August Compass Bank statement (account #: 0025876342), without exception. Further testing waived. Note that the interest and principle payment were made in one lump sum payment of \$1,287,734.08. Refer below for breakdown of payment.

Principle Payment	845,880	above
Interest Payment	441,854	above
	1,287,734	B

Appx. 01524

HCRE Restructure
Account Detail - Year end Balances
12/31/2017
PBC, tickmarked by Hilda Garcia, PwC

Note: The engagement team notes that some of HCRE's previous notes receivables were restructured and consolidated on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollforward from Drew Wilson, HCMLP. Refer below for the new restructured receivable rollforward tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Restructured Closing Date 5/31/2017 **A**
Total Commitment Restructured \$ 6,059,832
Rate 8.00% **A**

	Rc	B	Rc	Rc	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
5/31/2017	-	-	-	6,059,831.51	above	6,059,831.51
6/23/2017	30,548.19	-	30,548.19	6,059,831.51	-	6,059,831.51
6/30/2017	9,297.28	-	39,845.47	6,059,831.51	-	6,059,831.51
7/31/2017	41,173.65	-	81,019.12	6,059,831.51	-	6,059,831.51
8/31/2017	41,173.65	-	122,192.77	6,059,831.51	-	6,059,831.51
9/30/2017	39,845.47	-	162,038.23	6,059,831.51	-	6,059,831.51
10/31/2017	41,173.65	-	203,211.88	6,059,831.51	-	6,059,831.51
11/30/2017	39,845.47	-	243,057.35	6,059,831.51	-	6,059,831.51
12/31/2017	41,173.65	(284,231.00)	-	6,059,831.51	(201,994.42)	5,857,837.09
Totals	284,231.00	(284,231.00)	-		(201,994.42)	5,857,837.09

Interest Income - 2017

Date	Principle	Interest Rate	Interest Income
12/31/2016	5,750,000	7.85%	
1/31/2017	5,750,000	7.85%	38,336
2/28/2017	5,750,000	7.85%	34,626
3/31/2017	5,750,000	7.85%	38,336
4/30/2017	5,750,000	7.85%	37,099
5/31/2017	5,750,000	7.85%	38,336
remaining			284,231
Total Interest			470,964

SUMMARY	
Ending Principal Bal	5,857,837
Interest Income Bal	284,231

Tickmark Legend
A Footed without exception.
Rc Recalculated amount. Refer to the respective cell's formula for further details.
imm Amount is immaterial (below SUM). Therefore, further analysis is waived.
PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.
<PM Amount is below performance materiality, further testing waived.
A Agreed to the restructure Loan Agreement obtained from Drew Wilson, HCM, without exception. Refer to agreement linked below.
[06212017 HCRE Partners Loan Restructure](#)

B Agreed to cash deposit in the December Nexbank bank statement (account #: 1614130), without exception. Further testing waived. Note that the Interest and principle payment were made in one lump sum payment of \$486,225.42. Refer below for breakdown of payment.

Principle Payment	201,994	above
Interest Payment	284,231	above
	486,225	B

Appx. 01525

HCMLP
Notes Receivable
12/31/2017
PBC, tickmarked by Hilda Garcia, PwC

Note: The audit team notes that this Note Receivable balance is made up of a Hunter Mountain Investment Trust note. The audit team obtained the original contribution agreement in prior year, and also obtained the debt rollforward from Sean Fox, HCMLP. Refer below for the rollforward tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Beginning Principal 63,000,000 **A**
Interest Rate 2.61% **A**
Effective Date 12/21/2015 **A**

	Rc		Rc	Rc	D	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	PIK	Ending Prin Bal
12/31/16	46,099	-	46,099	64,644,423	PYWP	-	64,644,423
01/05/17	23,113	(69,211) D	-	64,644,423	(5,461,994)	-	59,182,430
01/31/17	110,031	-	110,031	59,182,430	-	-	59,182,430
02/28/17	118,495	-	228,525	59,182,430	-	-	59,182,430
03/31/17	131,190	-	359,716	59,182,430	-	-	59,182,430
04/30/17	126,958	-	486,674	59,182,430	-	-	59,182,430
05/31/17	131,190	-	617,865	59,182,430	-	-	59,182,430
06/30/17	126,958	-	744,823	59,182,430	-	-	59,182,430
07/31/17	131,190	-	876,013	59,182,430	-	-	59,182,430
08/31/17	131,190	-	1,007,204	59,182,430	-	-	59,182,430
09/30/17	126,958	-	1,134,162	59,182,430	-	-	59,182,430
10/31/17	131,190	-	1,265,353	59,182,430	-	-	59,182,430
11/30/17	126,958	-	1,392,311	59,182,430	-	-	59,182,430
12/21/17	88,871	(1,481,182) B	-	59,182,430	-	1,481,182	60,663,612
12/31/17	43,379	-	43,379	60,663,612	-	-	60,663,612
Totals	1,547,673 C	(1,550,394)	43,379		(5,461,994)	1,481,182	60,663,612

SUMMARY		
Ending Principal Bal	60,663,612	above
Interest Income Bal	1,547,673	above

Tickmark Legend

A Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

A Agrees to the signed Hunter Mountain contribution agreement linked below without exception. Refer to pg. 49 of the agreement for further details around these amounts.

Hunter Mountain Contribution Agreement

B Per discussion with Sean Fox, HCMLP, and review of the amortization schedule within the promissory note linked below (p. 7/7), the audit team notes that the interest accrued PIKs at it's anniversary date each year. Therefore, the team deems it reasonable that the full value of accrued interest was capitalized into the principal balance on the notes one year anniversary. Refer to the note below for further details.

HM Secured Promissory Note

C Agree to the Interest Income for Hunter Mountain Trust per the <80100> detail tab within an immaterial difference. Refer to the reconciliation within the aforementioned tab linked below for further details.

<80100>

D Agreed to cash deposit in the January Compass Bank statement (account #: 0025876342), without exception. Further testing waived. Note that the Interest and principle payment were made in one lump sum payment of \$5,531,205. Refer below for breakdown of payment.

Principal Payment 5,461,994 **above**
Interest Payment 69,211 **above**
5,531,205 **D**
A

Appx. 01526

Page 1 of 1

HCM Account Analysis Report

Parameters query:	From	To
Entity	0010	0010
Dept	000	999
Account	80100	80100
Business	00	99
Future	0000	0000
GL Date Range	01-JAN-17	31-DEC-17

Note: Note that Interest Income makes up a portion of the Other Income balance. As a majority of interest income was calculated within this EGA, the team performed a reconciliation to the detail.

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS					
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	Date placed in service	Asset Category	
Receivables	Misc Receipts	Receivables A 1863659 2313167	JAN-17 Misc Receipts USD	31-Jan-17	5	Journal Import Created	0010.0000.80100.00.0000	-	23,113						01052017ADW								
Receivables	Misc Receipts	Receivables A 1899658 2344091	JAN-17 Misc Receipts USD	31-Jan-17	6	Journal Import Created	0010.0000.80100.00.0000	-	1,651						01262017ADW								
Receivables	Misc Receipts	Receivables A 1922659 2366196	FEB-17 Misc Receipts USD	28-Feb-17	3	Journal Import Created	0010.0000.80100.00.0000	-	1,925						02132017ADW								
Receivables	Misc Receipts	Receivables A 1990658 2426146	MAR-17 Misc Receipts USD	31-Mar-17	3	Journal Import Created	0010.0000.80100.00.0000	-	997						03272017ADW								
Receivables	Misc Receipts	Receivables A 2026660 2461091	APR-17 Misc Receipts USD	30-Apr-17	4	Journal Import Created	0010.0000.80100.00.0000	-	1,607						04122017ADW								
Receivables	Misc Receipts	Receivables A 2076655 2506411	MAY-17 Misc Receipts USD	31-May-17	2	Journal Import Created	0010.0000.80100.00.0000	-	19,333						05092017ADW								
Receivables	Misc Receipts	Receivables A 2077659 2507104	MAY-17 Misc Receipts USD	31-May-17	6	Journal Import Created	0010.0000.80100.00.0000	-	519						05152017ADW								
Receivables	Misc Receipts	Receivables A 2106675 2535026	MAY-17 Misc Receipts USD	31-May-17	2	Journal Import Created	0010.0000.80100.00.0000	-	9,518						05312017ADW								
Receivables	Misc Receipts	Receivables A 2151677 2568629	JUN-17 Misc Receipts USD	30-Jun-17	5	Journal Import Created	0010.0000.80100.00.0000	-	882						06162017ADW								
Receivables	Misc Receipts	Receivables A 2163676 2578612	JUN-17 Misc Receipts USD	30-Jun-17	4	Journal Import Created	0010.0000.80100.00.0000	-	35,362						06232017ADW								
Receivables	Misc Receipts	Receivables A 2171694 2581566	JUN-17 Misc Receipts USD	30-Jun-17	4	Journal Import Created	0010.0000.80100.00.0000	-	168,355						06282017ADW								
Receivables	Misc Receipts	Receivables A 2186697 2602193	JUL-17 Misc Receipts USD	31-Jul-17	5	Journal Import Created	0010.0000.80100.00.0000	-	8,724						07062017ADW								
Receivables	Misc Receipts	Receivables A 2214695 2629500	JUL-17 Misc Receipts USD	31-Jul-17	5	Journal Import Created	0010.0000.80100.00.0000	-	16,644						07182017ADW								
Receivables	Misc Receipts	Receivables A 2236699 2650232	AUG-17 Misc Receipts USD	31-Aug-17	4	Journal Import Created	0010.0000.80100.00.0000	-	7,124						08042017ADW								
Receivables	Misc Receipts	Receivables A 2271697 2675803	AUG-17 Misc Receipts USD	31-Aug-17	3	Journal Import Created	0010.0000.80100.00.0000	-	17,037						08252017ADW								
Receivables	Misc Receipts	Receivables A 2346698 2747212	OCT-17 Misc Receipts USD	31-Oct-17	2	Journal Import Created	0010.0000.80100.00.0000	-	21						10022017ADW								
Receivables	Misc Receipts	Receivables A 2371699 2771151	OCT-17 Misc Receipts USD	31-Oct-17	5	Journal Import Created	0010.0000.80100.00.0000	-	565						10162017ADW								
Receivables	Misc Receipts	Receivables A 2382699 2784571	OCT-17 Misc Receipts USD	31-Oct-17	2	Journal Import Created	0010.0000.80100.00.0000	-	101,085						10202017ADW								
Receivables	Misc Receipts	Receivables A 2385695 2785572	OCT-17 Misc Receipts USD	31-Oct-17	3	Journal Import Created	0010.0000.80100.00.0000	-	1,979						10242017ADW								
Receivables	Misc Receipts	Receivables A 2402698 2798571	NOV-17 Misc Receipts USD	30-Nov-17	2	Journal Import Created	0010.0000.80100.00.0000	-	14						11012017ADW								
Receivables	Misc Receipts	Receivables A 2495699 2923167	DEC-17 Misc Receipts USD	31-Dec-17	2	Journal Import Created	0010.0000.80100.00.0000	-	8						12012017ADW								
Receivables	Misc Receipts	Receivables A 2501697 2926035	DEC-17 Misc Receipts USD	31-Dec-17	6	Journal Import Created	0010.0000.80100.00.0000	25,822	-						12082017ADW								
Receivables	Misc Receipts	Receivables A 2501697 2926035	DEC-17 Misc Receipts USD	31-Dec-17	7	Journal Import Created	0010.0000.80100.00.0000	-	51,645						12082017ADW								
Receivables	Misc Receipts	Receivables A 2507697 2934193	DEC-17 Misc Receipts USD	31-Dec-17	2	Journal Import Created	0010.0000.80100.00.0000	-	25,204						12052017ADW								
Receivables	Misc Receipts	Receivables A 2527697 2948397	DEC-17 Misc Receipts USD	31-Dec-17	2	Journal Import Created	0010.0000.80100.00.0000	-	27,620						12202017ADW								
Receivables	Misc Receipts	Receivables A 2538700 2961091	DEC-17 Misc Receipts USD	31-Dec-17	4	Journal Import Created	0010.0000.80100.00.0000	-	41,174						12272017ADW								
Spreadsheet	Adjustment	Reverses '20170531 Interest Receivable JE - NPA 6 True-up Ad' 13-JUN-17 12:28:33 - 2559046	Reverses '20170531 Interest Receivable JE - NPA 6 True-up Adjustment USD' 13-JUN-17	31-May-17	2	Interest (Account *891)	0010.0000.80100.00.0000	43,669	-														
Spreadsheet	Adjustment	Spreadsheet A 2354621	20170131 NextBank MM Interest Adjustment USD	31-Jan-17	4	Interest (Account *735)	0010.210.80100.10.0000	-	-														
Spreadsheet	Adjustment	Spreadsheet A 2354621	20170131 NextBank MM Interest Adjustment USD	31-Jan-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0														

Appx. 01527

JOURNAL ENTRIES

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	Law placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 2354621	20170131 NexBank MM Interest Adjustment USD	31-Jan-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	2,697													
Spreadsheet	Adjustment	Spreadsheet A 2355499	20170131 Hunter Mountain Note Receivable Update Adjustment	31-Jan-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	110,031													
Spreadsheet	Adjustment	Spreadsheet A 2357551	20170131 Interest Receivable JE Adjustment USD	31-Jan-17	2	12/31/2016 Interest Receivable	0010.000.80100.00.0000	-	343,993													
Spreadsheet	Adjustment	Spreadsheet A 2397428	20170228 NexBank MM Interest Adjustment USD	28-Feb-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2397428	20170228 NexBank MM Interest Adjustment USD	28-Feb-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2397428	20170228 NexBank MM Interest Adjustment USD	28-Feb-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	5,131													
Spreadsheet	Adjustment	Spreadsheet A 2397438	20170228 Hunter Mountain Note Receivable Update Adjustment	28-Feb-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	118,495													
Spreadsheet	Adjustment	Spreadsheet A 2407378	20170228 Interest Receivable JE Adjustment USD	28-Feb-17	2	1/31/2017 Interest Receivable	0010.000.80100.00.0000	-	308,550													
Spreadsheet	Adjustment	Spreadsheet A 2438206	20170331 Hunter Mountain Note Receivable Update Adjustment	31-Mar-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	134,190													
Spreadsheet	Adjustment	Spreadsheet A 2438837	20170331 NexBank MM Interest Adjustment USD	31-Mar-17	4	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2438837	20170331 NexBank MM Interest Adjustment USD	31-Mar-17	5	Interest (Account *891)	0010.210.80100.10.0000	-	395													
Spreadsheet	Adjustment	Spreadsheet A 2438837	20170331 NexBank MM Interest Adjustment USD	31-Mar-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	2,595													
Spreadsheet	Adjustment	Spreadsheet A 2439400	20170316 Cash Transfer Operating to MM Adjustment USD	16-Mar-17	4	HCM34 34 Loan Paydown - Int Income	0010.000.80100.00.0000	-	2,012													
Spreadsheet	Adjustment	Spreadsheet A 2439592	20170331 Interest Receivable JE Adjustment USD	31-Mar-17	2	1/31/2017 Interest Receivable	0010.000.80100.00.0000	-	339,658													
Spreadsheet	Adjustment	Spreadsheet A 2463466	20170331 Affiliates Reconciliation Adjustment USD	31-Mar-17	39	Services Loan Repayment	0010.000.80100.00.0000	-	2,012													
Spreadsheet	Adjustment	Spreadsheet A 2485997	20170430 Hunter Mountain Note Receivable Update Adjustment	30-Apr-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	126,958													
Spreadsheet	Adjustment	Spreadsheet A 2509281	20170430 Interest Receivable JE Adjustment USD	30-Apr-17	5	4/30/2017 Interest Receivable Double Booked Mar JE	0010.000.80100.00.0000	2,012	-													
Spreadsheet	Adjustment	Spreadsheet A 2509281	20170430 Interest Receivable JE Adjustment USD	30-Apr-17	6	4/30/2017 Interest Receivable	0010.000.80100.00.0000	-	327,087													
Spreadsheet	Adjustment	Spreadsheet A 2523355	20170430 NexBank MM Interest Adjustment USD	30-Apr-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2523355	20170430 NexBank MM Interest Adjustment USD	30-Apr-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2523355	20170430 NexBank MM Interest Adjustment USD	30-Apr-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	784													
Spreadsheet	Adjustment	Spreadsheet A 2536972	20170531 Hunter Mountain Note Receivable Update Adjustment	31-May-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	131,190													
Spreadsheet	Adjustment	Spreadsheet A 2536980	20170531 Interest Receivable JE Adjustment USD	31-May-17	2	5/31/2017 Interest Receivable	0010.000.80100.00.0000	-	289,998													
Spreadsheet	Adjustment	Spreadsheet A 2537119	20170531 NexBank MM Interest Adjustment USD	31-May-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2537119	20170531 NexBank MM Interest Adjustment USD	31-May-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2537119	20170531 NexBank MM Interest Adjustment USD	31-May-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	645													
Spreadsheet	Adjustment	Spreadsheet A 2558459	20170531 Interest Receivable JE - NPA 6 True-up Adjustment USD	31-May-17	2	5/31/2017 Interest Receivable - NPA #6 True-up	0010.000.80100.00.0000	-	43,669													
Spreadsheet	Adjustment	Spreadsheet A 2559065	20170531 Interest Receivable JE - NPA 6 True-up Adjustment USD	31-May-17	2	5/31/2017 Interest Receivable - NPA #6 True-up	0010.000.80100.00.0000	-	42,788													
Spreadsheet	Adjustment	Spreadsheet A 2580825	20170630 Hunter Mountain Note Receivable Update Adjustment	30-Jun-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	126,958													
Spreadsheet	Adjustment	Spreadsheet A 2591843	20170630 NexBank MM Interest Adjustment USD	30-Jun-17	4	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2591843	20170630 NexBank MM Interest Adjustment USD	30-Jun-17	5	Interest (Account *891)	0010.210.80100.10.0000	-	405													
Spreadsheet	Adjustment	Spreadsheet A 2591843	20170630 NexBank MM Interest Adjustment USD	30-Jun-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	933													
Spreadsheet	Adjustment	Spreadsheet A 2611838	20170630 Interest Receivable JE Adjustment USD	30-Jun-17	3	6/30/2017 Interest Receivable	0010.000.80100.00.0000	1,381	-													
Spreadsheet	Adjustment	Spreadsheet A 2611838	20170630 Interest Receivable JE Adjustment USD	30-Jun-17	4	6/30/2017 Interest Receivable	0010.000.80100.00.0000	-	329,757													
Spreadsheet	Adjustment	Spreadsheet A 2649966	20170731 NexBank MM Interest Adjustment USD	31-Jul-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2649966	20170731 NexBank MM Interest Adjustment USD	31-Jul-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													

Appx. 01528

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	Asset placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 2649866	20170731 NexBank MM Interest Adjustment USD	31-Jul-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	1,306													
Spreadsheet	Adjustment	Spreadsheet A 2650532	20170731 Hunter Mountain Note Receivable Update Adjustment	31-Jul-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	131,190													
Spreadsheet	Adjustment	Spreadsheet A 2650573	20170731 Interest Receivable JE Adjustment USD	31-Jul-17	4	7/31/2017 Interest Receivable	0010.000.80100.00.0000	24,999	-													
Spreadsheet	Adjustment	Spreadsheet A 2650573	20170731 Interest Receivable JE Adjustment USD	31-Jul-17	5	7/31/2017 Interest Receivable	0010.000.80100.00.0000	-	2,762													
Spreadsheet	Adjustment	Spreadsheet A 2650573	20170731 Interest Receivable JE Adjustment USD	31-Jul-17	6	7/31/2017 Interest Receivable	0010.000.80100.00.0000	-	141,895													
Spreadsheet	Adjustment	Spreadsheet A 2673397	20170731 Jefferies Reconciliation Adjustment USD	31-Jul-17	42	Carey Interest Payment	0010.000.80100.00.0000	-	49,805													
Spreadsheet	Adjustment	Spreadsheet A 2673495	20170731 Interest Receivable JE True-up Adjustment USD	31-Jul-17	2	7/31 Interest Receivable JE True-up	0010.000.80100.00.0000	-	278,887													
Spreadsheet	Adjustment	Spreadsheet A 2685126	20170831 Hunter Mountain Note Receivable Update Adjustment	31-Aug-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	131,190													
Spreadsheet	Adjustment	Spreadsheet A 2695370	20170831 NexBank MM Interest Adjustment USD	31-Aug-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2695370	20170831 NexBank MM Interest Adjustment USD	31-Aug-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2695370	20170831 NexBank MM Interest Adjustment USD	31-Aug-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	2,045													
Spreadsheet	Adjustment	Spreadsheet A 2696075	20170831 Interest Receivable JE Adjustment USD	31-Aug-17	2	8/31 Interest Receivable JE	0010.000.80100.00.0000	-	338,436													
Spreadsheet	Adjustment	Spreadsheet A 2712153	20170831 Jefferies Reconciliation Adjustment USD	31-Aug-17	15	Carey Interest Payment	0010.000.80100.00.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2712153	20170831 Jefferies Reconciliation Adjustment USD	31-Aug-17	16	MT Statutory Trust Interest Income	0010.000.80100.00.0000	-	61,996													
Spreadsheet	Adjustment	Spreadsheet A 2734904	20170930 Hunter Mountain Note Receivable Update Adjustment	30-Sep-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	126,958													
Spreadsheet	Adjustment	Spreadsheet A 2746843	20170930 Interest Receivable JE Adjustment USD	30-Sep-17	3	9/30 Interest Receivable JE True-up	0010.000.80100.00.0000	-	15,726													
Spreadsheet	Adjustment	Spreadsheet A 2746843	20170930 Interest Receivable JE Adjustment USD	30-Sep-17	4	9/30 Interest Receivable JE	0010.000.80100.00.0000	-	363,494													
Spreadsheet	Adjustment	Spreadsheet A 2747543	20170930 NexBank MM Interest Adjustment USD	30-Sep-17	4	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2747543	20170930 NexBank MM Interest Adjustment USD	30-Sep-17	5	Interest (Account *130)	0010.210.80100.10.0000	-	386													
Spreadsheet	Adjustment	Spreadsheet A 2747543	20170930 NexBank MM Interest Adjustment USD	30-Sep-17	6	Interest (Account *891)	0010.210.80100.10.0000	-	406													
Spreadsheet	Adjustment	Spreadsheet A 2749161	20170930 Jefferies Reconciliation Adjustment USD	30-Sep-17	13	Carey Interest Payment	0010.000.80100.00.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2749161	20170930 Jefferies Reconciliation Adjustment USD	30-Sep-17	14	Carey PIK	0010.000.80100.00.0000	-	24,821													
Spreadsheet	Adjustment	Spreadsheet A 2797447	20171031 Hunter Mountain Note Receivable Update Adjustment	31-Oct-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	131,190													
Spreadsheet	Adjustment	Spreadsheet A 2797677	20171031 Interest Receivable JE Adjustment USD	31-Oct-17	2	10/31 Interest Receivable JE	0010.000.80100.00.0000	-	283,722													
Spreadsheet	Adjustment	Spreadsheet A 2798308	20171031 NexBank MM Interest Adjustment USD	31-Oct-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2798308	20171031 NexBank MM Interest Adjustment USD	31-Oct-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2798308	20171031 NexBank MM Interest Adjustment USD	31-Oct-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	454													
Spreadsheet	Adjustment	Spreadsheet A 2811284	20171031 Jefferies Reconciliation Adjustment USD	31-Oct-17	13	Carey Interest Payment	0010.000.80100.00.0000	-	55,268													
Spreadsheet	Adjustment	Spreadsheet A 2874566	20171130 Hunter Mountain Note Receivable Update Adjustment	30-Nov-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	126,958													
Spreadsheet	Adjustment	Spreadsheet A 2923523	20171130 Interest Receivable JE Adjustment USD	30-Nov-17	3	11/30 Interest Receivable JE	0010.000.80100.00.0000	-	28,337													
Spreadsheet	Adjustment	Spreadsheet A 2923523	20171130 Interest Receivable JE Adjustment USD	30-Nov-17	4	11/30 Interest Receivable JE	0010.000.80100.00.0000	-	387,984													
Spreadsheet	Adjustment	Spreadsheet A 2924233	20171130 NexBank MM Interest Adjustment USD	30-Nov-17	4	Interest (Account *891)	0010.210.80100.10.0000	-	-													
Spreadsheet	Adjustment	Spreadsheet A 2924233	20171130 NexBank MM Interest Adjustment USD	30-Nov-17	5	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2924233	20171130 NexBank MM Interest Adjustment USD	30-Nov-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	1,720													
Spreadsheet	Adjustment	Spreadsheet A 2924986	20171130 Jefferies Reconciliation Adjustment USD	30-Nov-17	12	Goldfield & Carey PIK	0010.000.80100.00.0000	-	391,743													
Spreadsheet	Adjustment	Spreadsheet A 2971371	20171231 Hunter Mountain Note Receivable Update Adjustment	31-Dec-17	2	Hunter Mountain Interest Receivable True-up	0010.210.80100.10.0000	-	132,128													

Appx. 01529

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	Asset placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 2971390	201 71231 NexBank MM Interest Adjustment USD	31-Dec-17	4	Interest (Account *735)	0010.210.80100.10.0000	-	0													
Spreadsheet	Adjustment	Spreadsheet A 2971390	201 71231 NexBank MM Interest Adjustment USD	31-Dec-17	5	Interest (Account *891)	0010.210.80100.10.0000	-	403													
Spreadsheet	Adjustment	Spreadsheet A 2971390	201 71231 NexBank MM Interest Adjustment USD	31-Dec-17	6	Interest (Account *130)	0010.210.80100.10.0000	-	1,695													
Spreadsheet	Adjustment	Spreadsheet A 2985407	201 71231 Interest Receivable JE - Adjustment USD	31-Dec-17	9	HCMSI Interest True-up	0010.000.80100.00.0000	-	1,093													
Spreadsheet	Adjustment	Spreadsheet A 2985407	201 71231 Interest Receivable JE - Adjustment USD	31-Dec-17	10	Dugaboy Interest True-up	0010.000.80100.00.0000	-	3,206													
Spreadsheet	Adjustment	Spreadsheet A 2985407	201 71231 Interest Receivable JE - Adjustment USD	31-Dec-17	11	12/31 Interest Receivable JE -	0010.000.80100.00.0000	-	261,921													
Spreadsheet	Adjustment	Spreadsheet A 2985407	201 71231 Interest Receivable JE - Adjustment USD	31-Dec-17	12	Dugaboy Principal True-up	0010.000.80100.00.0000	-	395,013													
Spreadsheet	Adjustment	Spreadsheet A 2985427	201 71231 Jefferies Reconciliation Adjustment USD	31-Dec-17	20	Goldfield PRK	0010.000.80100.00.0000	-	11,742													
Spreadsheet	Adjustment	Spreadsheet A 3040434	201 71231 Interest Receivable JE - Dugaboy Interest True-up	31-Dec-17	2	12/31 Interest Receivable JE -	0010.000.80100.00.0000	304,227	-													
Spreadsheet	Adjustment	Spreadsheet A 3056866	201 71231 Casey PRK Adjustment	31-Dec-17	2	Dugaboy Interest True-up	0010.000.80100.00.0000	-	216,138													
								402,020	7,451,059													

Amount per detail above 7,049,039 Rc
Amount per TB 7,049,039 LS
Difference (not in thousands) - Rc, imm

Hunter Mountain Interest Income Reconciliation		
Hunter Mountain Interest Income per above	1,524,439	Rc
Interest Income per <Due from Hunter Mountain> tab	1,547,673	<Due from Hunter Mountains>
Difference	(23,234)	Rc, imm
	A	

Tickmark Legend

A Focled without exception.

imm Amount is immaterial. Therefore, further review is waived.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

LS Amount agrees to 12/31/17 lead schedule linked below without exception.

Lead schedule - Revenue

Total of highlighted amounts have been recalculated and agree to the interest income per the <Note Receivable> tab within an immaterial difference.

EXHIBIT 93

Engagement:	Highland Capital Management LP - 2018 Audit	
Period end date:	12/31/2018	
Audit unit:	Highland Capital Management LP - 2018 Audit-HQ	
Associated Risks:	Risk of material misstatement in Other Assets	
FSLI:	Other Assets	
EGA title:	Test due from and notes receivable	
Ref. no.:	3025-1510	
Rollforward - Notes receivable		
When more than one preparer was involved in the completion of this EGA, document the names of the team members involved and the procedures performed.	<i>[Document the initials or names of team members and procedures performed (e.g., Jane Doe performed step a) below)]</i> Prepared by Madeline Pacocha, PwC	
Procedures	Results	Links
a) Obtain a rollforward schedule of notes receivable balances, agree balances and test mathematical accuracy.	<input checked="" type="checkbox"/> Obtained a rollforward schedule of notes receivable balances. Attached in tab 'Results Template' or provided link. Note that the team obtained the closing balances of notes and accounts receivable by account type/entity. Attached schedule in the <Detail> tab. Additionally, note that the due from receivables listing was target tested for accounts greater than \$10M and the remaining population was non-stat tested. Refer to selections made and testing performed in the < Results Template> <p style="text-align: center;">AND</p> <input checked="" type="checkbox"/> Agreed balances to prior period workpapers and closing balances to the general ledger, and <ul style="list-style-type: none"> <input checked="" type="checkbox"/> No reconciling items noted, or <input type="checkbox"/> Reconciling items are not significant or unusual (when considered both individually and in the aggregate); therefore no further testing performed, or <i>[Document reconciling items noted and rationale for determination]</i> <input type="checkbox"/> Significant or unusual reconciling items noted; therefore performed further testing as follows: <i>[Document reconciling items noted and testing performed or provide link]</i> <p style="text-align: center;">AND</p> <input checked="" type="checkbox"/> Tested mathematical accuracy of the rollforward schedule, as follows: <i>[Document schedule name(s), details of testing performed or provide link to tickmarked schedule]</i> Refer to the <Detail> tab for procedures performed. <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Verified spreadsheet formula. <input type="checkbox"/> Manually added or recalculated. <input type="checkbox"/> Application controls over related report tested. <input type="checkbox"/> Other [Specify below]. <i>[Document details of testing, if not included in the linked schedule]</i>	
b) Agree activity within the rollforward to testing performed.	<input type="checkbox"/> Not applicable. There was no current period activity, or <input checked="" type="checkbox"/> Agreed activity within the rollforward to testing performed in the following EGAs (check those that apply): <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Total additions to testing performed in the EGA <i>Test additions - Notes receivable</i>. <input checked="" type="checkbox"/> Total payments to testing performed in the EGA <i>Test payments - Notes receivable</i>. The team tested additions and payments within this EGA. Refer to the subsequent tabs for procedures performed.	Results Template Appx. 01532

Rollforward - Notes receivable		
	<p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Obtained appropriate supporting documentation for any other adjustments within the rollforward, and:</p> <p><input type="checkbox"/> Tested a selection of adjustments (test(s) added from Aura Tests of Details template), or</p> <p><i>[Document other items tested and the details of work performed or provide link]</i></p> <p><input checked="" type="checkbox"/> Tested all adjustments.</p> <p><i>[Document other items tested and the details of work performed or provide link]</i></p> <p>The audit team tested all adjustments for notes selected for testing. Refer to the <Results Template> tab for testing performed.</p>	

Rollforward - Notes receivable

<p>c) Obtain detailed listing(s) of the ending balance of notes receivable by asset, agree balances and test mathematical accuracy.</p> <p><u>Service Delivery Center activities:</u></p> <p><u>Tests of Details</u></p>	<p><input type="checkbox"/> Not applicable. The rollforward in procedure a) was performed at the individual asset level, or</p> <p><input checked="" type="checkbox"/> Obtained detailed listing(s) of the ending balance of notes receivable. [Document details of accounts selected or provide link to detailed listing(s) obtained]</p> <p>Refer to the <Results Template> tab for procedures performed. Additionally, note that the due from receivables listing was target tested for accounts greater than \$10M and the remaining population was non-stat tested. Refer to testing performed in the < Results Template></p> <p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Agreed the total per the detailed listing to the ending balance per the rollforward, and:</p> <p><input checked="" type="checkbox"/> No reconciling items noted, or</p> <p><input type="checkbox"/> Reconciling items are not significant or unusual (when considered both individually and in the aggregate); therefore no further testing performed, or [Document reconciling items noted and rationale for determination]</p> <p><input type="checkbox"/> Significant or unusual reconciling items noted; therefore performed further testing as follows: [Document reconciling items noted and testing performed or provide link]</p> <p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Tested mathematical accuracy of the detailed listing, as follows: [Document schedule name(s), details of testing performed or provide link to tickmarked schedule]</p> <p><input checked="" type="checkbox"/> Verified spreadsheet formula.</p> <p><input type="checkbox"/> Manually added or recalculated.</p> <p><input type="checkbox"/> Application controls over related report tested.</p> <p><input type="checkbox"/> Other [Specify below]. [Document details of testing, if not included in the linked schedule]</p>	<p><u>Results Template</u></p>
<p>d) Define what constitutes an unexpected or unusual balance and scan the subledgers or detailed listing of ending balances of notes receivable by asset for unexpected (e.g. credit balances, large balances not confirmed, etc.) or unusual items.</p>	<p><input checked="" type="checkbox"/> Defined what constitutes an unexpected or unusual balance, as follows: [Define and document what constitutes an unexpected or unusual balance]</p> <p>An unexpected or unusual balance is defined as anything that is not considered in Due from Affiliate, within the details. The engagement team performed a Credit Risk Analysis over the material balances within the <Detail> tab to ensure that there were no unexpected or unusual loans. Refer to the <Credit Risk Analysis> tab for the engagement team analysis over the related balances.</p> <p style="text-align: center;">AND</p> <p><input checked="" type="checkbox"/> Scanned the subledgers or detailed listings noting the following:</p> <p><input checked="" type="checkbox"/> No unexpected or unusual balances, or</p> <p><input type="checkbox"/> Unusual or unexpected balances identified: [Document details of unexpected or unusual balances identified and resolution]</p>	

Rollforward - Notes receivable

Additional engagement specific procedures, if necessary

Procedures	Results
[Document engagement specific additional procedures, if necessary]	[Document results of additional procedures]
N/A	N/A

HCMLP
 Various Assets - Detail
 12/31/2018
 Prepared by Madeline Pacocha, PwC

Note: The below detail is for the Due From and Notes Receivable FSLI's. The team tested 100% of the Notes Receivable balance and performed a target test in addition non-stat sample over the Due from Affiliate balance to ensure adequate coverage. Refer below for testing references.

LS →

Due from affiliates

14010	CASH INTEREST RECEIVABLE	53,104	
14140	SHARED SVCS FEE RECVBL - PYXIS	235,476	
14142	SHARED SVCS FEE RECVBL - HCLOH	30,036	
14148	SHARED SVCS FEE RECVBL - RAND ADVISORS	2	
14530	DUE FROM HIGHLAND CAPITAL MANAGEMENT SERVICES	13,884,352	TT
14531	DUE FROM HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS	4,895,352	NS
14532	DUE FROM NEXPOINT ADVISORS	28,417,403	TT
14533	DUE FROM HCRE PARTNERS	9,005,843	NS
14565	DUE FROM OTHER - TAX LOANS	30,141,021	TT
14575	DUE FROM HIGHLAND CAPITAL OF NEW YORK	4,951,652	NS
14580	DUE FROM NEXBANK	60,000	
14585	DUE FROM HUNTER MOUNTAIN INVESTMENT TRUST	60,167,335	TT
14595	DUE FROM HIGHLAND CAPITAL KOREA	3,564,966	
14750	LONG TERM NOTES RECEIVABLE	21,556,268	TT

Total 176,962,810 Rc
 ^

SUMMARY	
	Rc
Total Due From	176,962,810
Target Test Count	5
Total Targeted	154,166,379
Total Non Stat	18,852,847
# of selections	3
Total Tested	173,019,226
	3,943,584

TOD Form: Test Due from Affiliates

Interest Income Tested	
HCMSI	265,120
Dondero Tax Loan	293,571
HCRE	468,096
Hunter Mountain	1,582,893
Total Tested	2,609,679

Tickmark Legend

^ Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

LS Amount agrees to the lead schedule linked below.

Lead schedule - Assets

NS Amount was selected for Non-Statistical Sampling Testing. Refer to the Non-Stat template linked below for further information and to the

TOD Form: Test Due from Affiliates

TT Due from

TOD Form: Test Due from Affiliates

<PM Remaining balance is below performance materiality, waive further review.

Highland Capital Management, L.P.
Credit Risk Analysis
12/31/2018
Prepared by Madeline Pacocha, PwC

Note: The audit team performed a credit analysis for all material (above performance materiality) notes receivable in order to determine the nature and intent of each note as well as assess the ability of the payee to pay the note. Refer to the team's analysis below.

<Detail>		A		A			
Account #	Counter Party	Amount	Interest Rate	Maturity Date	Nature	Recoverability	
14530	Highland Capital Management Services (James Dondero majority owner)	13,884,352	2.75%	12/31/2047	Highland Capital Management Services is an S Corp that acts as a platform investment company for one-off investments. Loans are provided to this entity primarily in order to provide seed capital for new investments.	Based on our testing performed over this loan, the engagement team notes that all the previous loans issued to HCMSI have been restructured and consolidated into one loan with a maturity date of 12/31/2047 and a yearly installment payment plan. The audit team also vouched interest payments being made by the fund, which also signifies that they have the ability to continue to make their payments. As such, the team is comfortable that the fund will be able to pay the loan when it becomes due. Further note that HCM Services has also paid back \$588K to HCMLP in principal payments for 2018 (vouched by engagement team) and paid off all the interest owed to the fund as of 12/31/2018. As the fund is showing an ability by continuing to make payments subsequent to year end and an installment payment plan has been implemented, the audit team is comfortable that the entity has the ability to pay down this loan when it becomes due. Furthermore, Jim Dondero owns more than 70% of this entity.	
14531	Highland Capital Fund Advisors	4,895,352	2.62%	On demand but not before 5/31/2019	Loans are made to HCMF for the fund's operational purposes.	Per review of the audited HCMF financial statements, the engagement team notes that the fund is realizing profits and has a positive cash flow. Based on the team's going concern considerations for this fund, the expectation is that the fund will be in positive partners capital by the next fiscal year. Based on the profit and improving performance of the fund, the team is comfortable that they will be able to pay the loan when it becomes due.	
14532	Nexpoint Advisors	28,417,403	6%	12/31/2047	Loans are made to Nexpoint for the fund's operational purposes.	Per review of the audited Nexpoint financial statements, the engagement team notes that the fund is realizing profits and has a positive cash flow. Based on the team's going concern considerations for this fund, the expectation is that the fund continue to recover from it's negative partners' capital balance in the coming years as it continues to improve performance and does not over distribute partners' capital. The engagement team additionally notes that NPA has stopped waiving management fees to the BDC (Nexpoint Capital Strategies) which is expected to significantly increase their revenue for future period. Based on the profit and improving performance of the fund, the team is comfortable that they will be able to pay the loan installments as they become due.	
14533	HCRE Partners (James Dondero)	9,005,843	Varies	On demand and 12/31/2047	HCRE Partners is a real estate investment entity that investments in opportunistic real estate investments and historically has realized substantial gains. Loans are provided to this entity primarily in order to provide seed capital for new investments. Note that 31% of this balance is due on demand. The remaining 69% is made up of a restructured loan that has a maturity date of 12/31/2047.	Per discussion with Dave Klos, HCMLP, the audit team notes that these loans are made at a high interest rate in order to encourage the fund to pay off the loan quickly. The audit team also vouched interest and principal payments being made by the fund, which also signifies that they have the ability to continue to make their payments. As such, the team is comfortable that the fund will be able to pay the loan when it becomes due. Furthermore, Jim Dondero owns more than 70% of this entity.	
14565	James Dondero	30,141,021	2.03%-2.25%	On demand and 12/31/2047	Related to Loans given to Limited Partners within the fund including James Dondero and Mark Okada in order to satisfy tax liability. Both have little basis in the fund, therefore a tax loan was given instead of an equity distribution. Note that James Dondero's portion was 92% of this balance and has a maturity date of 12/31/2047.	Per review of the Nexpoint Strategy Opportunities Fund form 13D filed with the SEC on 10/25/18, the engagement team notes that James Dondero owns 16.8% of this fund. Per review of the audited 12/31/18 financial statements for NHF, we note a total Net Asset Value of \$767.7 million, which leaves Dondero's ownership value in the fund at \$128.9 million. Additionally, the team notes that per NexPoint Residential Trust, Inc. form DEF 13D filed with the SEC on 11/20/2018, James Dondero also owns 19.65% of NexPoint Residential Trust. Per review of the audited 12/31/18 financial statements for NXRT, we note a total Net Asset Value of \$296,028,000 which leaves Dondero's ownership value in the fund at \$58,169,502. Based solely on these two investment values (\$188,069,502 value), not considering his extensive ownership of other assets, the team notes that Mr. Dondero has significant net worth in excess of the amount that is payable to HCMLP and therefore he has the ability to pay the loan. We note that because NHF is a publicly traded fund, he has the ability to sell his shares or transfer them back to HCMLP to satisfy the debt.	
14750	Dugaboy (James Dondero)	21,556,268	3.26%	12/31/2047	The audit team notes that this note was primarily made in order to donate assets held by the fund to charity. Therefore, the fund sold assets in exchange for a Note Payable ultimately from Dugaboy, of which the primary beneficiary is James Dondero.	See above.	
14585	Hunter Mountain Investment Trust (James Dondero)	60,167,335	2.61%	On demand	Note that Hunter Mountain purchased 99.5% of HCMLP. This loan was originally made for seller financing of the purchase of HCMLP as a part of the purchase price was paid in cash and a portion was financed as a note payable to HCMLP.	As Hunter Mountain owns 99.5% of HCMLP (verified through capital testing), the audit team notes that if Hunter Mountain did not have the ability to pay when the note became due, HCMLP could simply recover the receivable by netting off Hunter Mountain's capital balance. As such, the team is comfortable with the recoverability of this note. Additionally, the team notes that James Dondero is a significant owner of Hunter Mountain through the Crown Global Life Insurance. Therefore, the team notes that Mr. Dondero has significant net worth in excess of the amount that is payable to HCMLP and therefore he has the ability to pay the loan.	

Tickmark Legend

A Agrees to the note agreements obtained within the <Results Template> tab for testing.

Rollforward schedule of notes receivable

G/L Account	Account Description	Amount per Client		Balance per Testing Performed	TM	Rc, imm Differences
Target Tested						
14530	DUE FROM HIGHLAND CAPITAL MANAGEMENT SERVICES	13,884,352	<Detail>	13,884,352	<Due from HCMSI>	- imm
14532	DUE FROM NEXPOINT ADVISORS	28,417,403	<Detail>	28,417,403	A	-
14565	DUE FROM OTHER - TAX LOANS	30,141,021	<Detail>	30,141,021	B	0
14585	DUE FROM HUNTER MOUNTAIN INVESTMENT TRUST	60,167,335	<Detail>	60,167,336	<Due from Hunter Mountain>	(1)
14750	LONG TERM NOTES RECEIVABLE	21,556,268	<Detail>	21,556,268	<Dugaboy>	-
	Total Amount Targeted	154,166,379		154,166,379		(0)
Non-Stat						
14531	DUE FROM HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS	4,895,352	<Detail>	4,895,468	A	-116.00
14533	DUE FROM HCRE PARTNERS	9,005,843	<Detail>	9,005,843	C	0
14575	DUE FROM HIGHLAND CAPITAL OF NEW YORK	4,951,652	<Detail>	4,951,652	<New York>	(0)
	Total Amount Non-Stat	18,852,847		18,852,963	Rc	(115.89)
		^		^		^
	Total Amount Tested	173,019,226.00		173,019,342.30	Rc	-116.30 Rc, imm
		^		^		^

Tickmark Legend

Rc Amount recalculated. Refer to respective cell for formula detail.

imm Amount is immaterial, below SUM. Further testing is waived.

^ Amount footed. Refer to respective cell for formula detail.

PY Agrees to the prior year Asset lead schedule tested by the audit team without exception.

A The engagement team notes that the receivables above relate to amounts due from other audited HCM entities for loans provided by Highland Capital Management, L.P. ("HCMLP") to Highland Capital Management Fund Advisors ("HCMFA") or NexPoint Advisors ("NPA"). Further note the engagement team prepared and tested the Due to HCMLP rollforwards for both HCMFA and NPA, which correspond to the receivables amount above in conjunction with testing over those entities, without exception. Note that the following procedures were performed within the EGAs linked below.

	Amount	
Due from HCMFA	4,895,468	Understand debt agreements and test compliance
Due from Nexpoint	28,417,403	Understand debt agreements and test compliance

B The engagement team notes that this amount is made up of 2 separate loans issued for tax purposes to two owners, James Dondero and Mark Okada. Refer to the <Dondero Tax Loan> tab for testing and support obtained. The note receivable due from Mark Okada has not had any paydowns in the current year. As such Okada's note receivable balance as of 12/31/2018 is consistent with prior year.

Date	Lender	Interest Rate	Amount	
	Various HCM Dondero	Various	28,891,021	<Dondero Tax Loan>
4/15/2016	HCM Okada	2.25%	1,250,000	04152016 HCM Okada \$1.25M
			30,141,021	Rc
			^	

C The engagement team notes that this amount is made up of 4 separate loans issued to HCRE. We not that one of the notes was restructured in the current year and an additional note has been issued. Refer below for support reconciliation and support obtained from Kristin Hendrix, HCM.

Date	Lender	Interest Rate	Amount	
11/27/2013	HCRE #9	2.03%	100,000	PY
5/31/2017	HCRE Restructured	8.00%	5,655,843	<HCRE Restructure>
10/12/2017	HCRE #10	8.00%	2,500,000	10122017 HCRE \$2.5M
10/15/2018	HCRE #11		750,000	<HCRE Restructure>
			9,005,843	Rc
			^	

Due from Highland Capital Management Services
Account Detail - Year end Balances
12/31/2018
PwC, tickmarked by Madeline Paeocha, PwC

Note: The engagement team notes that the individual notes issued to HCM Services in the prior years were restructured and consolidated on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollover from Drew Wilson, HCM.P. Refer below for the new restructured receivable rollover led out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Closing Date 5/31/2017 A
Beginning Principle Balance \$ 20,247,628.02
Interest Rate 2.75% ↓

Closing Date 6/25/2018 C
Beginning Principle Balance 200,000
Interest Rate 3.050% ↓

Closing Date 3/26/2018 D
Beginning Principle Balance 150,000
Interest Rate 2.880% ↓

Date	Rc	B	Rc	Rc	B	Rc
Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal	
12/31/2017			14,122,352	PYWP	14,122,352	
1/31/2018	32,984	0	32,984	14,122,352	14,122,352	
2/28/2018	29,752	-	62,777	14,122,352	14,122,352	
3/31/2018	32,984	-	95,761	14,122,352	14,122,352	
4/30/2018	31,920	-	127,682	14,122,352	14,122,352	
5/31/2018	32,984	-	160,666	14,122,352	14,122,352	
6/30/2018	31,920	-	192,586	14,122,352	14,122,352	
7/31/2018	32,984	-	225,571	14,122,352	14,122,352	
8/31/2018	32,984	-	258,555	14,122,352	14,122,352	
9/30/2018	31,920	-	290,476	14,122,352	14,122,352	
10/8/2018	8,512	(412,000)	(113,012)	14,122,352	(588,000) 1	13,534,352
10/1/2018	31,811	-	(81,401)	13,534,352	-	13,534,352
11/30/2018	30,591	-	(50,810)	13,534,352	-	13,534,352
12/31/2018	31,811	-	(19,199)	13,534,352	-	13,534,352
Totals	265,120	(412,000)	(19,199)	(588,000)		13,534,352

Date	Rc	Rc	Rc
Interest Paid	Accrued Interest	Beg Prin Balance	Principal Paid
6/25/2018		200,000	200,000
6/30/2018	83.56	200,000	200,000
7/31/2018	518.08	200,000	200,000
8/31/2018	518.08	200,000	200,000
9/30/2018	501.37	200,000	200,000
10/31/2018	518.08	200,000	200,000
11/30/2018	501.37	200,000	200,000
12/31/2018	518.08	200,000	200,000

Date	Rc	Rc	Rc
Interest Paid	Accrued Interest	Beg Prin Balance	Principal Paid
3/26/2018		150,000	150,000
3/31/2018	62.67	150,000	150,000
4/30/2018	376.03	150,000	150,000
5/31/2018	388.56	150,000	150,000
6/30/2018	376.03	150,000	150,000
7/31/2018	388.56	150,000	150,000
8/31/2018	388.56	150,000	150,000
9/30/2018	376.03	150,000	150,000
10/31/2018	388.56	150,000	150,000
11/30/2018	376.03	150,000	150,000
12/31/2018	388.56	150,000	150,000

SUMMARY	
Ending Principal Bal	13,534,352 above
Accrued Interest	(19,199) ↓ <PW

Summary	
Ending Principal	200,000
Accrued Interest	518.08

Summary	
Ending Principal	150,000
Accrued Interest	388.56

Tickmark Legend

A Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

Imm Amount is immaterial (below \$UM). Therefore, further analysis is waived.

PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

<PW Amount is below performance materiality, further testing waived.

A Agreed to the restructure Loan Agreement obtained from Kristen Hendrix, HCM, without exception. Refer to agreement linked below.

06/21/2017 HCMSI Loan Restructure

B Agreed to cash deposit in the Nexbank bank statement (account # 1614130) for each respective month noted, without exception. Further testing waived. Refer below for breakdown of payment.

1) October

Principle Payment	(588,000) above
Interest Payment	(412,000) above
	(1,000,000) B

C Agreed to the Loan Agreement obtained from Kristen Hendrix, HCM, without exception. Refer to agreement linked below

06/25/2018 HCMSI Loan \$200K

D Agreed to the Loan Agreement obtained from Kristen Hendrix, HCM, without exception. Refer to agreement linked below.

03/26/2018 HCMSI \$150K

E See the reconciliation below for total due from HCMSI

Ending Principal

5/31/2017	13,534,352 Above
6/25/2018	200,000
3/26/2018	150,000 ↓
	13,884,352 Rc
	13,884,352 LS

Difference - Rc, imm

Due from James Dondero - Tax Loan
Account Detail - Year end Balances
12/31/2018
PBC, tickmarked by Madeline Pacocha, PwC

Note: The engagement team notes that in prior year there were six loans given to James Dondero, HCM Owner, for tax purposes. The original loan balances were agreed to their note agreements in the prior year, without exception. Note that there were four new note receivables during 2018. The audit team obtained the original agreement and the debt rollover from Kristin Hendrix, HCM LP. Refer below for the new restructured receivable rollover tied out by the audit team. As the sum of the ending balance of the notes agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Note 1						
Restructured Closing Date		5/31/2017	A 06212017 Dondero Loan Restructure			
Total Commitment Restructured		\$ 14,977,274				
Rate		2.03%				
Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
12/31/2017				14,478,031.16		14,478,031.16
1/31/2018	24,961.71	-	24,961.71	14,478,031.16		14,478,031.16
2/28/2018	22,546.06		47,507.78	14,478,031.16		14,478,031.16
3/31/2018	24,961.71		72,469.49	14,478,031.16		14,478,031.16
4/30/2018	24,156.50		96,625.98	14,478,031.16		14,478,031.16
5/31/2018	24,961.71		121,587.70	14,478,031.16		14,478,031.16
6/30/2018	24,156.50		145,744.19	14,478,031.16		14,478,031.16
7/31/2018	24,961.71		170,705.90	14,478,031.16		14,478,031.16
8/31/2018	24,961.71		195,667.62	14,478,031.16		14,478,031.16
9/30/2018	24,156.50		219,624.11	14,478,031.16		14,478,031.16
10/31/2018	24,961.71		244,785.82	14,478,031.16		14,478,031.16
11/30/2018	24,156.50		268,942.32	14,478,031.16		14,478,031.16
12/19/2018	15,299.11	(283,380.69)	860.74	14,478,031.16	(499,242.45)	13,978,788.71
12/31/2018	9,329.41	-	10,190.15	13,978,788.71		13,978,788.71
Totals	293,570.84	(283,380.69)	10,190.15		(499,242.45)	13,978,788.71

SUMMARY		
Ending Principal Bal	13,978,789	above
Accrued Interest	10,190	<PM

Note 2						
Closing Date		2/2/2018	A 02022018 HCM JD \$3.825M			
Total Commitment Restructured		3,825,000				
Rate		2.66%				
Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
2/2/2018				3,825,000		3,825,000
2/28/2018	7,247.59		7,247.59	3,825,000		3,825,000
3/31/2018	8,641.36		15,888.95	3,825,000		3,825,000
4/30/2018	8,362.60		24,251.55	3,825,000		3,825,000
5/31/2018	8,641.36		32,892.90	3,825,000		3,825,000
6/30/2018	8,362.60		41,255.51	3,825,000		3,825,000
7/31/2018	8,641.36		49,896.86	3,825,000		3,825,000
8/31/2018	8,641.36		58,538.22	3,825,000		3,825,000
9/30/2018	8,362.60		66,900.82	3,825,000		3,825,000
10/31/2018	8,641.36		75,542.18	3,825,000		3,825,000
11/30/2018	8,362.60		83,904.78	3,825,000		3,825,000
12/31/2018	8,641.36		92,546.14	3,825,000		3,825,000
Totals	92,546.14		92,546.14			3,825,000

Summary		
Ending Principal Bal	3,825,000	above
Accrued Interest	92,546	<PM

Note 3						
Closing Date		8/1/2018	A 08012018 HCM to JD \$2.5M			
Total Commitment Restructured		2,500,000				
Rate		2.95%				
Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
8/1/2018				2,500,000		2,500,000
8/31/2018	6,061.64		6,061.64	2,500,000		2,500,000
9/30/2018	6,061.64		12,123.29	2,500,000		2,500,000
10/31/2018	6,263.70		18,386.99	2,500,000		2,500,000
11/30/2018	6,061.64		24,448.63	2,500,000		2,500,000
12/31/2018	6,263.70		30,712.33	2,500,000		2,500,000
Totals	30,712.33		30,712.33			2,500,000

Summary		
Ending Principal Bal	2,500,000	above
Accrued Interest	30,712	<PM

Note 4						
Closing Date		1/18/2018	A 01182018 HCM JD \$7.9M Loan			
Total Commitment Restructured		7,900,000				
Rate		2.59%				
Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
1/18/2018				7,900,000		7,900,000
1/31/2018	7,287.48		7,287.48	7,900,000		7,900,000
2/28/2018	15,696.11		22,983.59	7,900,000		7,900,000
3/31/2018	17,377.84		40,361.42	7,900,000		7,900,000
4/30/2018	16,817.26		57,178.68	7,900,000		7,900,000
5/31/2018	17,377.84		74,556.52	7,900,000		7,900,000
6/30/2018	16,817.26		91,373.78	7,900,000		7,900,000
7/31/2018	17,377.84		108,751.62	7,900,000		7,900,000
8/31/2018	17,377.84		126,129.45	7,900,000		7,900,000
9/30/2018	16,817.26		142,946.71	7,900,000		7,900,000
10/31/2018	17,377.84		160,324.55	7,900,000		7,900,000
11/30/2018	16,817.26		177,141.81	7,900,000		7,900,000
12/18/2018	10,090.36	(187,232)	0.00	7,900,000	(1,812,768)	6,087,232
12/31/2018	7,287.48		7,287.48	6,087,232		6,087,232
Totals	7,287.48		7,287.48			6,087,232

Summary		
Ending Principal Bal	6,087,232	above
Accrued Interest	7,287	<PM

Note 5						
Closing Date		8/13/2018	A 08132018 HCM to JD \$2.5M			
Total Commitment Restructured		2,500,000				
Rate		2.95%				
Date	Rc Interest Income	B Interest Paid	Rc Accrued Interest	Rc Beg Prin Bal	B Principal Paid	Rc Ending Prin Bal
8/13/2018				2,500,000		2,500,000
8/31/2018	3,636.99		3,636.99	2,500,000		2,500,000
9/30/2018	6,061.64		9,698.63	2,500,000		2,500,000
10/31/2018	6,263.70		15,962.33	2,500,000		2,500,000
11/30/2018	6,061.64		22,023.97	2,500,000		2,500,000
12/31/2018	6,263.70		28,287.67	2,500,000		2,500,000
Totals	28,287.67		28,287.67			2,500,000

Summary		
Ending Principal Bal	2,500,000	above
Accrued Interest	28,288	<PM

Summary of Dondero Tax Loans		
Total Ending Principal Balances	28,891,021	Above

Tickmark Legend

A Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

Imm Amount is immaterial (below SUM). Therefore, further analysis is waived.

PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

<PM Amount is below performance materiality, further testing waived.

A Agreed to the restructure Loan Agreement obtained from Drew Wilson, HCM, without exception. Refer to agreement linked below.

Note 1	06212017 Dondero Loan Restructure
Note 2	02022018 HCM JD \$3.825M
Note 3	08012018 HCM to JD \$2.5M
Note 4	01182018 HCM JD \$7.9M Loan
Note 5	08132018 HCM to JD \$2.5M

B Agreed to cash deposit in the December Compass bank statement (account #: 0025876342), without exception. Further testing waived. Note that the interest and principle payment were made in two lump sum payment of \$782,623 and \$2,000,000. Refer below for breakdown of payment.

Note 1		
Principle Payment	499,242	above
Interest Payment	283,381	above
	782,623	B

Note 4		
Principle Payment	1,812,768	above
Interest Payment	187,232	above
	2,000,000	B

Due from Get Good

Account Detail - Year end Balances

12/31/2018

PBC, tickmarked by Madeline Pacocha, PwC

Note: The engagement team notes that this amount is related to a Note Receivable from Get Good original sold on 12/28/2016. Per review of the original purchase agreement, linked below, the audit team notes that HCMLP exchanged assets (held as a liability) for the right to receive 97.6835% of Get Good's Note receivable. We note that the original note receivable issued to Get Good Trust from the Dugaboy Trust was for \$24,268,621.69 on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollforward from Drew Wilson, HCMLP. Refer below for the new restructured receivable rollforward tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

06212017 Dugaboy Interest Amendment

GG and HCM PSA Crusader - Loan Fund - AAL 63370369 2

			HCM	PYWP
Original Note Date	12/28/2016		97.6835%	
Original Note Amount \$	23,817,640		\$ 23,265,904	↓
Restructured Closing Date	5/31/2017		97.6835%	A
Total Restructured Amount \$	24,268,622		\$ 22,860,559	↓
Rate	3.260%			

	B	Rc	Rc	B	Rc
Date	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
12/31/2017			22,860,559.00	PYWP	22,860,559.00
1/31/2018		63,295.56	22,860,559.00		22,860,559.00
2/28/2018		57,170.19	22,860,559.00		22,860,559.00
3/31/2018		63,295.56	22,860,559.00		22,860,559.00
4/30/2018		61,253.77	22,860,559.00		22,860,559.00
5/23/2018	(2,195,709)	46,961.23	22,860,559.00	(1,304,291.00)	21,556,268.00
5/31/2018	-	15,402.40	21,556,268.00		21,556,268.00
6/30/2018	-	57,758.99	21,556,268.00		21,556,268.00
7/31/2018	-	59,684.29	21,556,268.00		21,556,268.00
8/4/2018	-	7,701.20	21,556,268.00		21,556,268.00
8/31/2018	-	51,983.09	21,556,268.00		21,556,268.00
9/30/2018	-	57,758.99	21,556,268.00		21,556,268.00
10/31/2018	-	59,684.29	21,556,268.00		21,556,268.00
11/30/2018	-	57,758.99	21,556,268.00		21,556,268.00
12/31/2018	-	59,684.29	21,556,268.00		21,556,268.00
Totals	-	59,684.29		(1,304,291.00)	21,556,268.00

SUMMARY	
Ending Principal Bal	21,556,268
Accrued Interest	59,684

above
↓ <PM

Tickmark Legend

^ Footed without exception.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

imm Amount is immaterial (below SUM). Therefore, further analysis is waived.

PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.

<PM Amount is below performance materiality, further testing waived.

A Agreed to the restructure Get Good Note Receivable Loan Agreement obtained from Kristin Hendrix, HCM, without exception. Refer to agreement linked below.

06212017 Dugaboy Interest Amendment

B Agreed to cash deposit in the May Nex Bank statement (account #: 1614130), without exception. Further testing waived. Note that the Interest and principle payment were made in one lump sum payment of \$3,500,000. Refer below for breakdown of payment.

Principle Payment	(1,304,291)	above
Interest Payment	(2,195,709)	above
	(3,500,000)	B

^

HCRE Restructure

Account Detail - Year end Balances

12/31/2018

PBC, tickmarked by Madeline Pacocha, PwC

Note: The engagement team notes that some of HCRE's previous notes receivables were restructured and consolidated on 5/31/2017. The audit team obtained the original restructured agreement and the debt rollforward from Kristen Hendrix, HCMLP. Refer below for the new restructured receivable rollforward tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Restructured Closing Date 5/31/2017 **A**
 Total Commitment Restructured \$ 6,059,832
 Rate 8.00% **A**

	Rc	B	Rc	Rc	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
12/31/2017	-	-	-	5,857,837.09	PYWP	5,857,837.09
1/31/2018	39,801.19	-	39,801.19	5,857,837.09	-	5,857,837.09
2/28/2018	35,949.47	-	75,750.66	5,857,837.09	-	5,857,837.09
3/31/2018	39,801.19	-	115,551.85	5,857,837.09	-	5,857,837.09
4/30/2018	38,517.28	-	154,069.14	5,857,837.09	-	5,857,837.09
5/31/2018	39,801.19	-	193,870.33	5,857,837.09	-	5,857,837.09
6/30/2018	38,517.28	-	232,387.62	5,857,837.09	-	5,857,837.09
7/31/2018	39,801.19	-	272,188.81	5,857,837.09	-	5,857,837.09
8/31/2018	39,801.19	-	311,990.01	5,857,837.09	-	5,857,837.09
9/30/2018	38,517.28	-	350,507.29	5,857,837.09	-	5,857,837.09
10/31/2018	39,801.19	-	390,308.49	5,857,837.09	-	5,857,837.09
11/30/2018	38,517.28	-	428,825.77	5,857,837.09	-	5,857,837.09
12/19/2018	24,394.28	(453,220.06)	(0.01)	5,857,837.09	(201,994.38)	5,655,842.71
12/31/2018	14,875.64	-	14,875.63	5,655,842.71	-	5,655,842.71
Totals	468,095.69	(453,220.06)	14,875.63	5,655,842.71	(201,994.38)	5,655,842.71

SUMMARY		
Ending Principal Bal	5,655,843	above
Accrued Interest	14,876	<PM

Restructured Closing Date 10/15/2018 **C**
 Total Commitment Restructured \$ 750,000
 Rate 8.00% **C**

	Rc	B	Rc	Rc	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	Ending Prin Bal
10/15/2018	-	-	-	750,000.00	-	750,000.00
10/31/2018	2,630.14	-	2,630.14	750,000.00	-	750,000.00
11/30/2018	4,931.51	-	7,561.64	750,000.00	-	750,000.00
12/19/2018	3,123.29	-	10,684.93	750,000.00	-	750,000.00
12/31/2018	1,972.60	-	12,657.53	750,000.00	-	750,000.00
Totals	12,657.53	793,388.08	12,657.53	750,000.00	-	750,000.00

SUMMARY		
Ending Principal Bal	750,000	
Accrued Interest	12,658	

Tickmark Legend**A** Footed without exception.**Rc** Recalculated amount. Refer to the respective cell's formula for further details.**imm** Amount is immaterial (below SUM). Therefore, further analysis is waived.**PYWP** Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.**<PM** Amount is below performance materiality, further testing waived.**A** Agreed to the restructure Loan Agreement obtained from Kristen Hendrix, HCM, without exception. Refer to agreement linked below.[06212017 HCRE Partners Loan Restructure](#)**B** Agreed to cash deposit in the December Compass bank statement (account #: 0025876342), without exception. Further testing waived. Note that the Interest and principle payment were made in one lump sum payment of \$655,214. Refer below for breakdown of payment.

Principle Payment	201,994	above
Interest Payment	453,220	above
	655,214	B

C Agreed to the restructure Loan Agreement obtained from Kristen Hendrix, HCM, without exception. Refer to agreement linked below.[HCMLP to HCRE 750K 10.15.18](#)

Note: The engagement team notes the receivable based on an agreement with Highland Capital of New York, L.P. Based on the agreement, linked below, Highland Capital of New York, L.P. performs marketing and other services to Highland Capital, for a management fee. Purchases incurred are tracked, as detailed below, and then are netted again the management fee for the period. Further details related to the agreement are described in the transfer pricing agreement linked below. The engagement team performed a reconciliation of the transactions that occurred through the year to arrive at the amount described on the trial balance ending 12/31/2018.

HC of NY Mgmt Service Agreement

PBC

Page 1 of 1

HCM Account

Parameters given:

	From	To
Entity	0010	0010
Dept	000	000
Account	14575	14575
Business	00	00
Future	0000	0000
GI Date	01-JAN-	31-DEC-18

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Payables	Purchase Invoices	Payables A 2560696 2986308 2	JAN-18 Purchase Invoices USD	31-Jan-18	9	Journal Import Created	0010.000.14575 .00.0000	1290.88	0	Charles Schwab		01152018 CS	1/15/2018 401k Debits									
Payables	Purchase Invoices	Payables A 2560696 2986308 2	JAN-18 Purchase Invoices USD	31-Jan-18	9	Journal Import Created	0010.000.14575 .00.0000	23385.69	0	HIGHLAND CAPITAL OF NEW YORK		1/15/2018 Payroll Funding	1/15/2018 Payroll Funding									
Payables	Purchase Invoices	Payables A 2586696 3013544 2	JAN-18 Purchase Invoices USD	31-Jan-18	5	Journal Import Created	0010.000.14575 .00.0000	65000	0	HIGHLAND CAPITAL OF NEW YORK		1/16/2018 Account Funding	1/16/2018 HCN Y Account Funding									
Receivables	Misc Receipts	Receivables A 3012696 3492090	AUG-18 Misc Receipts USD	31-Aug-18	5	Journal Import Created	0010.000.14575 .00.0000	0	370.97						08132018ADW							
Receivables	Misc Receipts	Receivables A 3121698 3678139	NOV-18 Misc Receipts USD	30-Nov-18	6	Journal Import Created	0010.000.14575 .00.0000	0	1000						KH11022018							
Receivables	Misc Receipts	Receivables A 3185728 3774954	DEC-18 Misc Receipts USD	31-Dec-18	7	Journal Import Created	0010.000.14575 .00.0000	0	1693.25						HE12262018							
Spreadsheet	Adjustment	Spreadsheet A 4017472	20181231 Intercompany reclass Adjustment USD	31-Dec-18	2	Intercompany Reclass	0010.000.14575 .00.0000	0	924808.57													

1,360,487 ^ 928,377 ^ Rc

PY Ending Balance	4,519,542	PYWP
Net Change in CY	432,110	Above
Total Due From	4,951,652	Rc
	4,951,652	<Detail>
Difference	0	Rc, imm

PwC Tickmark Legend

Rc Recalculated amount. Refer to the respective cell's formula for further details.

^ Footed without exception

<Detail> Refer to the <Detail> tab.

PYWP Agreed to prior year workpaper without exception.

HCMLP
Notes Receivable
12/31/2018
PBC, tickmarked by Madeline Pacocha, PwC

Note: The audit team notes that this Note Receivable balance is made up of a Hunter Mountain Investment Trust note. The audit team obtained the original contribution agreement in prior year, and also obtained the debt rollforward from Sean Fox, HCMLP. Refer below for the rollforward tied out by the audit team. As the ending balance of the note agrees to the Notes Receivable balance on the lead schedule without exception, further analysis is waived.

Beginning Principal 63,000,000 A
Interest Rate 2.61%
Effective Date 12/21/2015 D

	Rc		Rc	Rc	D	B	Rc
Date	Interest Income	Interest Paid	Accrued Interest	Beg Prin Bal	Principal Paid	PIK	Ending Prin Bal
12/31/17	46,099	-	46,099	60,663,612	-	-	60,663,612
01/31/18	134,474	-	180,573	60,663,612	-	-	60,663,612
02/28/18	121,460	-	302,033	60,663,612	-	-	60,663,612
03/31/18	134,474	-	436,507	60,663,612	-	-	60,663,612
04/30/18	130,136	-	566,643	60,663,612	-	-	60,663,612
05/31/18	134,474	-	701,116	60,663,612	-	-	60,663,612
06/30/18	130,136	-	831,252	60,663,612	-	-	60,663,612
07/31/18	134,474	-	965,726	60,663,612	-	-	60,663,612
08/31/18	134,474	-	1,100,200	60,663,612	-	-	60,663,612
09/30/18	130,136	-	1,230,336	60,663,612	-	-	60,663,612
10/31/18	134,474	-	1,364,809	60,663,612	-	-	60,663,612
11/30/18	130,136	-	1,494,945	60,663,612	-	-	60,663,612
12/19/18	82,419	(1,574,526)	2,839	60,663,612	(504,880)	-	60,158,732
12/21/18	8,604	(8,604) B	2,839	60,158,732	-	8,604	60,167,336
12/31/18	43,024	-	45,863	60,167,336	-	-	60,167,336
Totals	1,582,893 C	(1,583,130)	45,863		(504,880)	8,604	60,167,336

SUMMARY		
Ending Principal Bal	60,167,336	above
Accrued Interest	45,863	above

Tickmark Legend

- ^ Footed without exception.
Rc Recalculated amount. Refer to the respective cell's formula for further details.
PYWP Agreed to the prior year workpaper, without exception. Refer to the Test due from and notes receivable EGA in prior years database.
A Agrees to the signed Hunter Mountain contribution agreement linked below without exception. Refer to pg. 49 of the agreement for further details around these amounts.
Hunter Mountain Contribution Agreement
B Per review of the amortization schedule within the promissory note linked below (p. 7/7), the audit team notes that the interest accrued PIKs at it's anniversary date each year. Therefore, the team deems it reasonable that the full value of accrued interest was capitalized into the principal balance on the notes one year anniversary. Refer to the note below for further details.

HM Secured Promissory Note

- C Agree to the Interest Income for Hunter Mountain Trust per the <80100> detail tab within an immaterial difference. Refer to the reconciliation within the aforementioned tab linked below for further details.
<80100>
D Agreed to cash deposit in the December Compass Bank statement (account #: 0025876342), without exception. Further testing waived. Note that the Interest and principle payment were made in one lump sum payment of \$2,079,406. Refer below for breakdown of payment.

Principal Payment	504,880	above
Interest Payment	1,583,130	above
PIK	(8,604)	
	2,079,406	D

Page 1 of 1

HCM Account Analysis Report

Parameters given:

	From	To
Entity	0010	0010
Dept	000	999
Account	80100	80100
Business Unit	00	99
Future	0000	9999
Gl Date	01-JAN-18	31-DEC-18

Note: Note that Interest Income receivable makes up a portion of the Other Income balance. As a majority of interest income was calculated within this EGA, the

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Receivables	Misc Receipts	Receivables A 2720699 3148337 2	APR-18 Misc Receipts USD	30-Apr-18	2	Journal Import Created	0010.000.80100.00.0000	0	153.05						04032018ADW							
Receivables	Misc Receipts	Receivables A 2927697 3379091	JUL-18 Misc Receipts USD	31-Jul-18	2	Journal Import Created	0010.000.80100.00.0000	0	115.4						07032018ADW							
Receivables	Misc Receipts	Receivables A 2955693 3396569	JUL-18 Misc Receipts USD	31-Jul-18	2	Journal Import Created	0010.000.80100.00.0000	0	337.38						07172018ADW							
Receivables	Misc Receipts	Receivables A 3177740 3762252 2	DEC-18 Misc Receipts USD	31-Dec-18	3	Journal Import Created	0010.000.80100.00.0000	0	10090.36						HE12192018							
Spreadsheet	Adjustment	Reverses "20180630 Interest Receivable JE Adjustment USD"01-AUG-18 09:05:08 - 3458829	Reverses "20180630 Interest Receivable JE Adjustment USD"01-AUG-18 09:05:08	30-Jun-18	2	6/30 Interest Receivable JE	0010.000.80100.00.0000	317670.24	0													
Spreadsheet	Adjustment	Reverses "20180831 Interest Receivable JE Adjustment USD"10-SEP-18 15:36:26 - 3554954	Reverses "20180831 Interest Receivable JE Adjustment USD"10-SEP-18 15:36:26	31-Aug-18	2	8/31 Interest Receivable JE	0010.000.80100.00.0000	371485.53	0													
Spreadsheet	Adjustment	Spreadsheet A 3030498	20180131 Hunter Mountain Note Receivable Update Adjustment USD	31-Jan-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3031144	20180131 NexBank MM Interest Adjustment USD	31-Jan-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3031144	20180131 NexBank MM Interest Adjustment USD	31-Jan-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3031144	20180131 NexBank MM Interest Adjustment USD	31-Jan-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	1097.25													
Spreadsheet	Adjustment	Spreadsheet A 3041181	20180131 Interest Receivable JE Adjustment USD	31-Jan-18	2	1/31 Interest Receivable JE	0010.000.80100.00.0000	0	356027.21													
Spreadsheet	Adjustment	Spreadsheet A 3055700	20180131 Jefferies Reconciliation Adjustment USD	31-Jan-18	12	Goldfield PIK	0010.000.80100.00.0000	0	12601.94													
Spreadsheet	Adjustment	Spreadsheet A 3055700	20180131 Jefferies Reconciliation Adjustment USD	31-Jan-18	13	Carey PIK	0010.000.80100.00.0000	0	324206.82													
Spreadsheet	Adjustment	Spreadsheet A 3056870	20180101 Carey PIK Adjustment USD	1-Jan-18	2	Carey PIK	0010.000.80100.00.0000	216137.88	0													
Spreadsheet	Adjustment	Spreadsheet A 3093661	20180228 Hunter Mountain Note Receivable Update Adjustment USD	28-Feb-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	121451.71													
Spreadsheet	Adjustment	Spreadsheet A 3093710	20180228 NexBank MM Interest Adjustment USD	28-Feb-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3093710	20180228 NexBank MM Interest Adjustment USD	28-Feb-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.17													

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 3093710	20180228 NexBank MM Interest Adjustment USD	28-Feb-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	2058.13													
Spreadsheet	Adjustment	Spreadsheet A 3094101	20180228 Interest Receivable JE Adjustment USD	28-Feb-18	2	2/28 Interest Receivable JE	0010.000.80100.00.0000	0	337934.42													
Spreadsheet	Adjustment	Spreadsheet A 3097972	20180228 Jefferies Reconciliation Adjustment USD	28-Feb-18	10	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3097972	20180228 Jefferies Reconciliation Adjustment USD	28-Feb-18	11	Goldfield PIK	0010.000.80100.00.0000	0	11892													
Spreadsheet	Adjustment	Spreadsheet A 3147202	20180331 NexBank MM Interest Adjustment USD	31-Mar-18	4	Interest (Account *735)	0010.210.80100.10.0000	0	0.19													
Spreadsheet	Adjustment	Spreadsheet A 3147202	20180331 NexBank MM Interest Adjustment USD	31-Mar-18	5	Interest (Account *891)	0010.210.80100.10.0000	0	399.92													
Spreadsheet	Adjustment	Spreadsheet A 3147202	20180331 NexBank MM Interest Adjustment USD	31-Mar-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	840.21													
Spreadsheet	Adjustment	Spreadsheet A 3147221	20180331 Hunter Mountain Note Receivable Update Adjustment USD	31-Mar-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3147305	20180331 Interest Receivable JE Adjustment USD	31-Mar-18	3	3/31 Interest Receivable JE - Okada True-up	0010.000.80100.00.0000	0	770.55													
Spreadsheet	Adjustment	Spreadsheet A 3147305	20180331 Interest Receivable JE Adjustment USD	31-Mar-18	4	3/31 Interest Receivable JE	0010.000.80100.00.0000	0	376399.52													
Spreadsheet	Adjustment	Spreadsheet A 3161933	20180331 Jefferies Reconciliation Adjustment USD	31-Mar-18	17	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3161933	20180331 Jefferies Reconciliation Adjustment USD	31-Mar-18	18	Goldfield PIK	0010.000.80100.00.0000	0	11167.62													
Spreadsheet	Adjustment	Spreadsheet A 3236844	20180430 Hunter Mountain Note Receivable Update Adjustment USD	30-Apr-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	130126.83													
Spreadsheet	Adjustment	Spreadsheet A 3236875	20180430 NexBank MM Interest Adjustment USD	30-Apr-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3236875	20180430 NexBank MM Interest Adjustment USD	30-Apr-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.17													
Spreadsheet	Adjustment	Spreadsheet A 3236875	20180430 NexBank MM Interest Adjustment USD	30-Apr-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	498.3													
Spreadsheet	Adjustment	Spreadsheet A 3245730	20180430 Interest Receivable JE Adjustment USD	30-Apr-18	2	4/30 Interest Receivable JE	0010.000.80100.00.0000	0	363024.99													
Spreadsheet	Adjustment	Spreadsheet A 3263927	20180430 Jefferies Reconciliation Adjustment USD	30-Apr-18	8	Goldfield PIK	0010.000.80100.00.0000	0	12836.42													
Spreadsheet	Adjustment	Spreadsheet A 3263927	20180430 Jefferies Reconciliation Adjustment USD	30-Apr-18	9	Carey Interest Receipt	0010.000.80100.00.0000	0	75674.11													
Spreadsheet	Adjustment	Spreadsheet A 3263927	20180430 Jefferies Reconciliation Adjustment USD	30-Apr-18	10	Carey PIK	0010.000.80100.00.0000	0	303377.61													

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 3292395	20180531 Hunter Mountain Note Receivable Update Adjustment USD	31-May-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3295979	20180531 NexBank MM Interest Adjustment USD	31-May-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3295979	20180531 NexBank MM Interest Adjustment USD	31-May-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.19													
Spreadsheet	Adjustment	Spreadsheet A 3295979	20180531 NexBank MM Interest Adjustment USD	31-May-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	492.44													
Spreadsheet	Adjustment	Spreadsheet A 3296208	20180531 Interest Receivable JE Adjustment USD	31-May-18	2	5/31 Interest Receivable JE	0010.000.80100.00.0000	0	358791.49													
Spreadsheet	Adjustment	Spreadsheet A 3335308	20180531 Jefferies Reconciliation Adjustment USD	31-May-18	19	Reimer Interest Income Reversal	0010.000.80100.00.0000	4099.73	0													
Spreadsheet	Adjustment	Spreadsheet A 3335308	20180531 Jefferies Reconciliation Adjustment USD	31-May-18	20	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3335308	20180531 Jefferies Reconciliation Adjustment USD	31-May-18	21	Goldfield PIK	0010.000.80100.00.0000	0	11709.5													
Spreadsheet	Adjustment	Spreadsheet A 3335308	20180531 Jefferies Reconciliation Adjustment USD	31-May-18	22	JHT PIK	0010.000.80100.00.0000	0	52717.18													
Spreadsheet	Adjustment	Spreadsheet A 3335535	20180630 Hunter Mountain Note Receivable Update Adjustment USD	30-Jun-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	130126.83													
Spreadsheet	Adjustment	Spreadsheet A 3354201	20180630 NexBank MM Interest Adjustment USD	30-Jun-18	4	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3354201	20180630 NexBank MM Interest Adjustment USD	30-Jun-18	5	Interest (Account *891)	0010.210.80100.10.0000	0	410.06													
Spreadsheet	Adjustment	Spreadsheet A 3354201	20180630 NexBank MM Interest Adjustment USD	30-Jun-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	910.97													
Spreadsheet	Adjustment	Spreadsheet A 3363051	20180630 Interest Receivable JE Adjustment USD	30-Jun-18	2	6/30 Interest Receivable JE	0010.000.80100.00.0000	0	317670.24													
Spreadsheet	Adjustment	Spreadsheet A 3378836	20180630 Jefferies Reconciliation Adjustment USD	30-Jun-18	9	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3378836	20180630 Jefferies Reconciliation Adjustment USD	30-Jun-18	10	Goldfield PIK	0010.000.80100.00.0000	0	12591.64													
Spreadsheet	Adjustment	Spreadsheet A 3378940	20180630 Interest Receivable JE Adjustment USD	30-Jun-18	2	6/30 Interest Receivable JE	0010.000.80100.00.0000	0	317670.24													
Spreadsheet	Adjustment	Spreadsheet A 3408762	20180731 Hunter Mountain Note Receivable Update Adjustment USD	31-Jul-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3458821	20180731 NexBank MM Interest Adjustment USD	31-Jul-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3458821	20180731 NexBank MM Interest Adjustment USD	31-Jul-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 3458821	20180731 NexBank MM Interest Adjustment USD	31-Jul-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	1744.89													
Spreadsheet	Adjustment	Spreadsheet A 3458905	20180731 Interest Receivable JE Adjustment USD	31-Jul-18	3	7/31 Interest Receivable JE	0010.000.80100.00.0000	0	57758.99													
Spreadsheet	Adjustment	Spreadsheet A 3458905	20180731 Interest Receivable JE Adjustment USD	31-Jul-18	4	7/31 Interest Receivable JE	0010.000.80100.00.0000	0	371473.69													
Spreadsheet	Adjustment	Spreadsheet A 3504909	20180731 Jefferies Reconciliation Adjustment USD	31-Jul-18	16	Goldfield PIK	0010.000.80100.00.0000	0	12591.64													
Spreadsheet	Adjustment	Spreadsheet A 3504909	20180731 Jefferies Reconciliation Adjustment USD	31-Jul-18	17	Carey Interest Receipt	0010.000.80100.00.0000	0	106164.18													
Spreadsheet	Adjustment	Spreadsheet A 3504909	20180731 Jefferies Reconciliation Adjustment USD	31-Jul-18	18	Carey PIK	0010.000.80100.00.0000	0	293160.35													
Spreadsheet	Adjustment	Spreadsheet A 3506570	20180831 Hunter Mountain Note Receivable Update Adjustment USD	31-Aug-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3538289	20180831 NexBank MM Interest Adjustment USD	31-Aug-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3538289	20180831 NexBank MM Interest Adjustment USD	31-Aug-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.19													
Spreadsheet	Adjustment	Spreadsheet A 3538289	20180831 NexBank MM Interest Adjustment USD	31-Aug-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	603.26													
Spreadsheet	Adjustment	Spreadsheet A 3538465	20180831 Interest Receivable JE Adjustment USD	31-Aug-18	2	8/31 Interest Receivable JE	0010.000.80100.00.0000	0	371485.53													
Spreadsheet	Adjustment	Spreadsheet A 3554799	20180831 Interest Receivable JE Adjustment USD	31-Aug-18	2	8/31 Interest Receivable JE	0010.000.80100.00.0000	0	381184.16													
Spreadsheet	Adjustment	Spreadsheet A 3558805	20180831 Jefferies Reconciliation Adjustment USD	31-Aug-18	14	Carey Interest Receipt	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3558805	20180831 Jefferies Reconciliation Adjustment USD	31-Aug-18	15	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3558805	20180831 Jefferies Reconciliation Adjustment USD	31-Aug-18	16	Goldfield PIK	0010.000.80100.00.0000	0	12421.39													
Spreadsheet	Adjustment	Spreadsheet A 3583897	20180930 Hunter Mountain Note Receivable Update Adjustment USD	30-Sep-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	130126.83													
Spreadsheet	Adjustment	Spreadsheet A 3598822	20180930 NexBank MM Interest Adjustment USD	30-Sep-18	4	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3598822	20180930 NexBank MM Interest Adjustment USD	30-Sep-18	5	Interest (Account *130)	0010.210.80100.10.0000	0	252.31													
Spreadsheet	Adjustment	Spreadsheet A 3598822	20180930 NexBank MM Interest Adjustment USD	30-Sep-18	6	Interest (Account *891)	0010.210.80100.10.0000	0	673.41													
Spreadsheet	Adjustment	Spreadsheet A 3598861	20180930 Interest Receivable JE Adjustment USD	30-Sep-18	2	9/30 Interest Receivable JE	0010.000.80100.00.0000	0	368956.99													

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 3611323	20180930 Jefferies Reconciliation Adjustment USD	30-Sep-18	10	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3611323	20180930 Jefferies Reconciliation Adjustment USD	30-Sep-18	11	Carey Interest Receipt	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3611323	20180930 Jefferies Reconciliation Adjustment USD	30-Sep-18	12	Goldfield PIK	0010.000.80100.00.0000	0	14072.91													
Spreadsheet	Adjustment	Spreadsheet A 3677868	20181031 NexBank MM Interest Adjustment USD	31-Oct-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3677868	20181031 NexBank MM Interest Adjustment USD	31-Oct-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3677868	20181031 NexBank MM Interest Adjustment USD	31-Oct-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	141.15													
Spreadsheet	Adjustment	Spreadsheet A 3677870	20181031 Hunter Mountain Note Receivable Update Adjustment USD	31-Oct-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	134464.4													
Spreadsheet	Adjustment	Spreadsheet A 3678489	20181031 Interest Receivable JE Adjustment USD	31-Oct-18	2	Interest Receivable JE	0010.000.80100.00.0000	0	378976.46													
Spreadsheet	Adjustment	Spreadsheet A 3690820	20181031 Jefferies Reconciliation Adjustment USD	31-Oct-18	10	Goldfield PIK	0010.000.80100.00.0000	0	11254													
Spreadsheet	Adjustment	Spreadsheet A 3690820	20181031 Jefferies Reconciliation Adjustment USD	31-Oct-18	11	Carey Interest Receipt	0010.000.80100.00.0000	0	107050.7													
Spreadsheet	Adjustment	Spreadsheet A 3690820	20181031 Jefferies Reconciliation Adjustment USD	31-Oct-18	12	Carey PIK	0010.000.80100.00.0000	0	299032.86													
Spreadsheet	Adjustment	Spreadsheet A 3719838	20181130 Hunter Mountain Note Receivable Update Adjustment USD	30-Nov-18	2	Hunter Mountain Note Receivable Update - PIK	0010.210.80100.10.0000	0	130126.83													
Spreadsheet	Adjustment	Spreadsheet A 3720781	20181130 Interest Receivable JE Adjustment USD	30-Nov-18	2	Interest Receivable JE	0010.000.80100.00.0000	0	392259.84													
Spreadsheet	Adjustment	Spreadsheet A 3731221	20181130 NexBank MM Interest Adjustment USD	30-Nov-18	4	Interest (Account *891)	0010.210.80100.10.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3731221	20181130 NexBank MM Interest Adjustment USD	30-Nov-18	5	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3731221	20181130 NexBank MM Interest Adjustment USD	30-Nov-18	6	Interest (Account *130)	0010.210.80100.10.0000	0	254.18													
Spreadsheet	Adjustment	Spreadsheet A 3761305	20181130 Jefferies Reconciliation Adjustment USD	30-Nov-18	11	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3761305	20181130 Jefferies Reconciliation Adjustment USD	30-Nov-18	12	Goldfield PIK	0010.000.80100.00.0000	0	26489.55													
Spreadsheet	Adjustment	Spreadsheet A 3774850	20181231 Hunter Mountain Note Receivable Update Adjustment USD	31-Dec-18	4	Hunter Mountain Note Receivable - Interest	0010.210.80100.10.0000	0	134046.7													
Spreadsheet	Adjustment	Spreadsheet A 3786797	20181231 HM Note True Up Adjustment USD	31-Dec-18	2	Hunter Mountain Note Receivable - Interest True UP	0010.210.80100.10.0000	0	4438.63													

JOURNAL ENTRIES										PAYABLES				RECEIVABLES				FIXED ASSETS				
Source	Category	Journal Batch Name	Journal Name	GL Date	Journal Line Number	Journal Line Description	Account code combination	Amount DR	Amount CR	Supplier name	AP Check #	AP Invoice #	AP Invoice Description	Customer Name	AR Receipt Number	AR Transaction Number	AR Transaction Description	Asset Number	Asset vendor	Asset Description	placed in service	Asset Category
Spreadsheet	Adjustment	Spreadsheet A 3801275	20181231 NexBank MM Interest Adjustment USD	31-Dec-18	4	Interest (Account *735)	0010.210.80100.10.0000	0	0.18													
Spreadsheet	Adjustment	Spreadsheet A 3801275	20181231 NexBank MM Interest Adjustment USD	31-Dec-18	5	Interest (Account *130)	0010.210.80100.10.0000	0	56.27													
Spreadsheet	Adjustment	Spreadsheet A 3801275	20181231 NexBank MM Interest Adjustment USD	31-Dec-18	6	Interest (Account *891)	0010.210.80100.10.0000	0	669.49													
Spreadsheet	Adjustment	Spreadsheet A 3801965	2018123Interest Receivable JE Adjustment USD	31-Dec-18	2	Interest Receivable JE	0010.000.80100.00.0000	0	368743.85													
Spreadsheet	Adjustment	Spreadsheet A 3827317	20181130 Jefferies Reconciliation Adjustment USD	31-Dec-18	11	Goldfield PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3827317	20181130 Jefferies Reconciliation Adjustment USD	31-Dec-18	12	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3864462	20191231 Interest Receivable JE True up Adjustment USD	31-Dec-18	2	Interest Receivable JE True Up	0010.000.80100.00.0000	23453.36	0													
Spreadsheet	Adjustment	Spreadsheet A 3878401	20181231 HM Note Correction Adjustment USD	31-Dec-18	2	Hunter Mountain Note Receivable - Interest True UP	0010.210.80100.10.0000	4337.57	0													
Spreadsheet	Adjustment	Spreadsheet A 3878742	20181231 Jefferies Reconciliation - Turtle Bay Adjustment USD	31-Dec-18	11	Carey PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3878742	20181231 Jefferies Reconciliation - Turtle Bay Adjustment USD	31-Dec-18	12	Goldfield PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 3879365	20181130 Jefferies Reconciliation - Carey and American Adjustment USD	31-Dec-18	12	Goldfield PIK	0010.000.80100.00.0000	0	0													
Spreadsheet	Adjustment	Spreadsheet A 4030971	20181130 Jefferies Reconciliation - Pendrell Adjust Adjustment USD	31-Dec-18	4	MTM	0010.000.80100.00.0000	0	1177.1													
								937184.31	8440349.05													

Amount per detail above7,503,165Rc

Amount per TB7,503,165LS

Difference (not in thousands)0Rc, imm

Hunter Mountain Interest Income Reconciliation		
Hunter Mountain Interest Income per above	1,582,893	Rc
Interest Income per <Due from Hunter Mountain> tab	45,863	<Due from Hunter Mountain>
Difference	1,537,031	Rc, imm

Tickmark Legend

^ Footed without exception.

imm Amount is immaterial. Therefore, further review is waived.

Rc Recalculated amount. Refer to the respective cell's formula for further details.

LS Amount agrees to 12/31/18 lead schedule linked below without exception.

Lead schedule - Revenue

Total of highlighted amounts have been recalculated and agree to the interest income per the <Note Receivable> tab within an immaterial difference.

EXHIBIT 94

1 BURGER

2 IN THE UNITED STATES BANKRUPTCY COURT
3 FOR THE NORTHERN DISTRICT OF TEXAS
4 DALLAS DIVISION

5 -----
6 IN RE:

7 Chapter 11
8 HIGHLAND CAPITAL
9 MANAGEMENT, L.P., CASE NO.
10 19-34054-SGI11

11 Debtor.
12 -----

13 HIGHLAND CAPITAL MANAGEMENT, L.P.,

14 Plaintiff,

15 vs. Adversary
16 Proceeding No.
17 HIGHLAND CAPITAL MANAGEMENT 21-03000-sgj
18 FUND ADVISORS, L.P.; NEXPOINT
19 ADVISORS, L.P.; HIGHLAND
20 INCOME FUND; NEXPOINT
21 STRATEGIC OPPORTUNITIES FUND;
22 NEXPOINT CAPITAL, INC.; and
23 CLO HOLDCO, LTD.,

24 Defendants.
25 -----

26

27 REMOTE DEPOSITION OF

28 PEET BURGER

29 July 30, 2021

30

31

32

33

34 Reported by: Susan S. Klinger, RMR-CRR, CSR

35 Job No. 197393

<p>Page 2</p> <p>1 BURGER</p> <p>2</p> <p>3</p> <p>4 July 30, 2021</p> <p>5 10:01 a.m.</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Remote Deposition of PEET BURGER, held</p> <p>10 before Susan S. Klinger, a Registered Merit</p> <p>11 Reporter and Certified Realtime Reporter of the</p> <p>12 State of Texas.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1 BURGER</p> <p>2 A P P E A R A N C E S:</p> <p>3 (All appearances via Zoom.)</p> <p>4 Attorneys for Debtor:</p> <p>5 BY: John Morris, Esq.</p> <p>6 PACHULSKI STANG ZIEHL & JONES</p> <p>7 780 Third Avenue</p> <p>8 New York, New York 10017</p> <p>9 Attorneys for the PwC and the Witness:</p> <p>10 BY: John Wander, Esq.</p> <p>11 VINSON & ELKINS</p> <p>12 2001 Ross Avenue</p> <p>13 Dallas, Texas 75201</p> <p>14 Attorneys for John Dondero, Highland Capital</p> <p>15 Management Services, NexPoint:</p> <p>16 BY: Michael Aigen, Esq.</p> <p>17 STINSON</p> <p>18 3102 Oak Lawn Avenue</p> <p>19 Dallas, Texas 75219</p> <p>20</p> <p>21 Attorneys for NexPoint Advisors, LP, Highland</p> <p>22 Capital Fund Advisors:</p> <p>23 BY: Thomas Berghman, Esq.</p> <p>24 MUNSCH HARDT KOPF & HARR</p> <p>25 500 North Akard Street</p> <p>Dallas, Texas 75201</p> <p>Also Present:</p> <p>Ms. La Asia Canty</p>																								
<p>Page 4</p> <p>1 BURGER</p> <p>2 I N D E X</p> <p>3</p> <table border="0"> <tr> <td>4 WITNESS</td> <td>PAGE</td> </tr> <tr> <td>5 PEET BURGER</td> <td></td> </tr> <tr> <td>6 EXAMINATION BY MR. MORRIS</td> <td>5</td> </tr> <tr> <td>7 EXAMINATION BY MR. AIGEN</td> <td>76</td> </tr> <tr> <td>8 EXAMINATION BY MR. MORRIS</td> <td>92</td> </tr> </table> <p>9</p> <p>10 E X H I B I T S</p> <table border="0"> <tr> <td>11 No.</td> <td>Page</td> </tr> <tr> <td>12 Exhibit 1 Management representation</td> <td>18</td> </tr> <tr> <td>13 Letter, 6/3/19</td> <td></td> </tr> <tr> <td>14 Exhibit 2 2017 Financial Statements</td> <td>30</td> </tr> <tr> <td>15 Exhibit 3 2017 Workpapers</td> <td>41</td> </tr> <tr> <td>16 Exhibit 4 2018 Financial Statements</td> <td>47</td> </tr> <tr> <td>17 Exhibit 5 2018 Workpapers</td> <td>55</td> </tr> </table> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	4 WITNESS	PAGE	5 PEET BURGER		6 EXAMINATION BY MR. MORRIS	5	7 EXAMINATION BY MR. AIGEN	76	8 EXAMINATION BY MR. MORRIS	92	11 No.	Page	12 Exhibit 1 Management representation	18	13 Letter, 6/3/19		14 Exhibit 2 2017 Financial Statements	30	15 Exhibit 3 2017 Workpapers	41	16 Exhibit 4 2018 Financial Statements	47	17 Exhibit 5 2018 Workpapers	55	<p>Page 5</p> <p>1 BURGER</p> <p>2 PROCEEDINGS</p> <p>3 PEET BURGER,</p> <p>4 having been first duly sworn testified as</p> <p>5 follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Good morning. Can you state your</p> <p>9 name for the record, please?</p> <p>10 A. I can. Peet Burger.</p> <p>11 Q. Are you currently employed,</p> <p>12 Mr. Burger?</p> <p>13 A. Yes.</p> <p>14 Q. By whom?</p> <p>15 A. PricewaterhouseCoopers.</p> <p>16 Q. And what is your title at</p> <p>17 PricewaterhouseCoopers?</p> <p>18 A. I'm an audit partner.</p> <p>19 Q. When did you become an audit partner</p> <p>20 at PricewaterhouseCoopers?</p> <p>21 A. January 1st of 2014.</p> <p>22 Q. Have you been an audit partner at</p> <p>23 PricewaterhouseCoopers on a consistent basis</p> <p>24 since January 1st, 2014?</p> <p>25 A. Yes, I have.</p>
4 WITNESS	PAGE																								
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<p style="text-align: right;">Page 6</p> <p>1 BURGER</p> <p>2 Q. In that capacity, have you overseen</p> <p>3 the audits for Highland Capital Management,</p> <p>4 L.P.?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Just briefly, were you employed by</p> <p>7 PricewaterhouseCoopers prior to the time you</p> <p>8 became an audit partner at the beginning of</p> <p>9 2014?</p> <p>10 A. Yes, I have. Do I need to give the</p> <p>11 dates?</p> <p>12 Q. Can you just tell me when you first</p> <p>13 joined PwC?</p> <p>14 A. I joined in January of 1997 in our</p> <p>15 South African firm. Yes, that's correct.</p> <p>16 Q. When did you join the audit group?</p> <p>17 A. In January of 1997.</p> <p>18 Q. So you have been with</p> <p>19 PricewaterhouseCoopers' audit unit on a</p> <p>20 consistent basis for more than 20 years; is</p> <p>21 that fair?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. When did you personally begin</p> <p>24 working on the Highland Capital Management,</p> <p>25 L.P. audits, do you recall?</p>	<p style="text-align: right;">Page 7</p> <p>1 BURGER</p> <p>2 A. Somewhere in 2013. I would say</p> <p>3 April, 2013.</p> <p>4 Q. And were you the audit partner in</p> <p>5 charge of the Highland engagement from 2013</p> <p>6 until the time the 2018 financial statements</p> <p>7 were completed?</p> <p>8 A. This is specific to Highland Capital</p> <p>9 Management, L.P., yes.</p> <p>10 Q. I'm just going to refer to Highland</p> <p>11 Capital Management, L.P. as Highland going</p> <p>12 forward; is that okay?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever been deposed before?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 A. No.</p> <p>18 Q. I apologize, I should have started</p> <p>19 with some ground rules, but I'm trying to be</p> <p>20 mindful of the time. It is important that you</p> <p>21 allow me to finish my questions before you</p> <p>22 begin your answers; is that okay?</p> <p>23 A. Sure.</p> <p>24 Q. And if I begin my next question</p> <p>25 before you begin – before you finish your</p>
<p style="text-align: right;">Page 8</p> <p>1 BURGER</p> <p>2 answer, will you let me know that?</p> <p>3 A. Sure.</p> <p>4 Q. Do you understand that the court</p> <p>5 reporter is taking down every word that we say?</p> <p>6 A. Yes.</p> <p>7 Q. If you want to break at any time,</p> <p>8 will you let me know?</p> <p>9 A. Sure.</p> <p>10 Q. If there is anything that you don't</p> <p>11 understand, if there is a question that I ask</p> <p>12 that you either don't understand or you think</p> <p>13 is ambiguous in some way, will you let me know</p> <p>14 that?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. From PricewaterhouseCoopers'</p> <p>17 perspective, what is the purpose of an audit?</p> <p>18 A. To provide reasonable assurance in</p> <p>19 in terms of the auditing and accounting</p> <p>20 standards.</p> <p>21 Q. What standards are you referring to?</p> <p>22 A. In this case Generally Accepted</p> <p>23 Auditing Standards.</p> <p>24 Q. What are Generally Accepted Auditing</p> <p>25 Standards, if you know?</p>	<p style="text-align: right;">Page 9</p> <p>1 BURGER</p> <p>2 A. It is a set of rules basically</p> <p>3 governed by the AICPA of what – considered</p> <p>4 what is the sort of conglomerate of rules on</p> <p>5 your professional standards of engagement to</p> <p>6 sign an audit opinion.</p> <p>7 Q. And do I have this correctly, that</p> <p>8 the purpose of the audit is to provide</p> <p>9 reasonable assurance that the financial</p> <p>10 statements are in compliance with Generally</p> <p>11 Accepted Auditing Standards?</p> <p>12 MR. WANDER: Did you say assurance</p> <p>13 or insurance?</p> <p>14 Q. Assurance?</p> <p>15 A. Yes, assurance, yes. The procedures</p> <p>16 performed by us in terms of Generally Accepted</p> <p>17 Auditing Standards and the financials itself is</p> <p>18 presented in terms of Generally Accepted</p> <p>19 Accounting Practice.</p> <p>20 Q. Okay. And are those standards or</p> <p>21 practices familiar to you in the course of your</p> <p>22 duties?</p> <p>23 A. Yes, it is.</p> <p>24 Q. Okay. Can you describe for me</p> <p>25 generally the process that PwC undertook in</p>

<p>Page 10</p> <p>1 BURGER</p> <p>2 connection with its auditing of the Highland</p> <p>3 financial statements? Is there, you know, a</p> <p>4 process that you follow?</p> <p>5 A. Yes, there is. I mean, it is a</p> <p>6 pretty long process which starts all the way</p> <p>7 from the planning to completion and you know,</p> <p>8 through the execution which audit approach</p> <p>9 outlines all the relevant standards of the</p> <p>10 procedures that we're supposed perform from the</p> <p>11 planning, execution and completion stage.</p> <p>12 Q. And is that something that you share</p> <p>13 with Highland so that they understand the</p> <p>14 process?</p> <p>15 A. We don't share our workpapers and</p> <p>16 absolutely every single part of that, but they</p> <p>17 – I mean, they know what we are looking for in</p> <p>18 the sense of obviously for – we make requests</p> <p>19 for information. And if the information is not</p> <p>20 clear, we need to explain to them why we are</p> <p>21 asking them for it.</p> <p>22 Q. And how soon after the completion of</p> <p>23 the fiscal year does PwC begin the process that</p> <p>24 leads to the final audit?</p> <p>25 A. We start this engagement in its</p>	<p>Page 11</p> <p>1 BURGER</p> <p>2 fieldwork stage in around about April after –</p> <p>3 April after the unit.</p> <p>4 Q. And what do you mean when you use</p> <p>5 the phrase fieldwork?</p> <p>6 A. Our execution phase.</p> <p>7 Q. Is that the time when you begin to</p> <p>8 send informational requests to Highland?</p> <p>9 A. No, we send it through the planning</p> <p>10 phase as well, which the planning phase is the</p> <p>11 phase where you get engaged to go through all</p> <p>12 the planning and setting up the procedures that</p> <p>13 you are supposed to perform for the – for the</p> <p>14 execution phase. And you can also do some of</p> <p>15 the execution transaction work during that</p> <p>16 period to save yourself from having to spend</p> <p>17 that time in April and May.</p> <p>18 Q. And when does the planning stage</p> <p>19 begin?</p> <p>20 A. Each year can be slightly different,</p> <p>21 but in this case, this was around about the</p> <p>22 October – September, October.</p> <p>23 Q. So the planning would begin in the</p> <p>24 fall of each fiscal year and –</p> <p>25 A. Correct.</p>
<p>Page 12</p> <p>1 BURGER</p> <p>2 Q. Is that fair?</p> <p>3 A. That's fair.</p> <p>4 Q. And then during the planning stage,</p> <p>5 PwC would make information requests to</p> <p>6 Highland. Do I have that right?</p> <p>7 A. You have got that correct.</p> <p>8 Q. And then in response to that,</p> <p>9 Highland would feed information to PwC for</p> <p>10 PwC's review. Do I have that right?</p> <p>11 A. Correct.</p> <p>12 Q. And then the fieldwork is – is the</p> <p>13 next step the fieldwork?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you recall during the time</p> <p>16 that you were the audit partner did you have a</p> <p>17 primary contact at Highland for purposes of the</p> <p>18 planning and the execution phases of the audit?</p> <p>19 A. There were more than one individual</p> <p>20 we dealt with, but I recall there was a primary</p> <p>21 contact which facilitated sort of – you know,</p> <p>22 the – which facilitated all of our</p> <p>23 communication.</p> <p>24 Q. And who was that?</p> <p>25 A. That was David Klos.</p>	<p>Page 13</p> <p>1 BURGER</p> <p>2 Q. And who besides Mr. Klos were the</p> <p>3 primary points of contact?</p> <p>4 A. Frank Waterhouse is the CFO and</p> <p>5 Kristin Hendrix who, for the lack of a better</p> <p>6 word was the – the sort of chief – the</p> <p>7 accountant.</p> <p>8 Q. The accountant?</p> <p>9 A. Yes.</p> <p>10 Q. Yes. And how many people typically</p> <p>11 were on the Price Waterhouse team for purposes</p> <p>12 of the Highland audits?</p> <p>13 A. It depends on the phase of the</p> <p>14 audit, but at the biggest part of the audit the</p> <p>15 execution phase we were, including me I would</p> <p>16 say six or seven people.</p> <p>17 Q. Okay. And how would</p> <p>18 PricewaterhouseCoopers obtain the information</p> <p>19 that it needed to prepare the audited financial</p> <p>20 statements?</p> <p>21 A. Sorry. Just to make sure, say</p> <p>22 obtain the information. We – we have a – I</p> <p>23 mean, I did this over seven years. It morphed</p> <p>24 over time, but we have a – a site, a secure</p> <p>25 site called Connect. And I think towards the</p>

<p>Page 14</p> <p>1 BURGER</p> <p>2 end we used that for them to upload</p> <p>3 information.</p> <p>4 Previously Highland had its own</p> <p>5 secure site where we would raise a request and</p> <p>6 they would upload the information on the secure</p> <p>7 site.</p> <p>8 Q. Okay. Did PricewaterhouseCoopers</p> <p>9 rely on management to provide the information</p> <p>10 that would enable PwC to prepare the audited</p> <p>11 financial statements?</p> <p>12 A. We did.</p> <p>13 Q. Did PwC ever make any site visits to</p> <p>14 Highland in connection with the audits?</p> <p>15 A. We did.</p> <p>16 Q. And during those visits, was it</p> <p>17 typical that PricewaterhouseCoopers might have</p> <p>18 follow-up requests for information?</p> <p>19 MR. AIGEN: Objection, form.</p> <p>20 A. Yes.</p> <p>21 Q. Did PwC ever provide drafts of the</p> <p>22 audit reports to Highland for their review</p> <p>23 prior to the time they were finalized?</p> <p>24 A. If you mean audit reports, do you</p> <p>25 mean the one- or two-page opinion that I signed</p>	<p>Page 15</p> <p>1 BURGER</p> <p>2 or do you mean the financial statements?</p> <p>3 Q. I apologize, thank you for the</p> <p>4 clarification.</p> <p>5 I mean, the financial statements and</p> <p>6 the notes accompanying the financial</p> <p>7 statements?</p> <p>8 A. They compile that and that is their</p> <p>9 responsibility, so they provide us with that</p> <p>10 document.</p> <p>11 Q. Okay. So the five or six pages of</p> <p>12 financial statements and all of the notes are</p> <p>13 compiled by Highland, not by PwC?</p> <p>14 A. Correct, yeah, correct.</p> <p>15 Q. And did PwC have an opportunity to</p> <p>16 review and comment on the drafts of the</p> <p>17 financial statements on the accompanying notes?</p> <p>18 A. Yes, we do.</p> <p>19 Q. And did PwC in the course of its</p> <p>20 engagement ask the questions that PwC thought</p> <p>21 was relevant in order to give reasonable</p> <p>22 assurance that the financial statements were in</p> <p>23 accordance with Generally Accepted Auditing</p> <p>24 Standards?</p> <p>25 MR. AIGEN: Objection, form.</p>
<p>Page 16</p> <p>1 BURGER</p> <p>2 MR. WANDER: You mean, GAAP, not</p> <p>3 GAAS?</p> <p>4 Q. I mean, it is auditing not</p> <p>5 accounting; right? So it is Generally Accepted</p> <p>6 Accounting Standards, do I have that right?</p> <p>7 MR. WANDER: The audited – the</p> <p>8 financials are in accordance with GAAP.</p> <p>9 The audit is done in accordance with GAAS.</p> <p>10 Q. Thank you for the clarification, so</p> <p>11 let me rephrase the question.</p> <p>12 Did PwC ask the questions that it</p> <p>13 believed were necessary in order to provide</p> <p>14 reasonable assurance that the financial</p> <p>15 statements were in conformance with GAAP?</p> <p>16 MR. AIGEN: Objection, form.</p> <p>17 A. We did.</p> <p>18 Q. Did PwC receive representation</p> <p>19 letters from Highland in connection with each</p> <p>20 audit?</p> <p>21 A. Yeah, we did.</p> <p>22 Q. And are you personally familiar with</p> <p>23 the form of management representation letter</p> <p>24 that Highland provided to PwC each year?</p> <p>25 A. Yes, I am.</p>	<p>Page 17</p> <p>1 BURGER</p> <p>2 Q. Was it part of your personal</p> <p>3 responsibilities to review the management</p> <p>4 representation letters?</p> <p>5 A. It was.</p> <p>6 Q. From PwC's perspective, what was the</p> <p>7 purpose of the management representation</p> <p>8 letters?</p> <p>9 A. It is an opportunity for us to get</p> <p>10 management to make certain representations of</p> <p>11 us – in terms of scope of what is expected of</p> <p>12 us in an audit.</p> <p>13 Q. And was that representation letter</p> <p>14 required by PwC in order for PwC to sign-off on</p> <p>15 the audit?</p> <p>16 A. It is, it was.</p> <p>17 Q. And is it fair to say that PwC</p> <p>18 relied on the management representation letters</p> <p>19 when it decided to sign-off on the audit?</p> <p>20 A. We did.</p> <p>21 Q. I would like to put up on the screen</p> <p>22 a document that I have marked as Exhibit 1,</p> <p>23 which is the June 3rd, 2019 management</p> <p>24 representation letter.</p> <p>25 (Exhibit 1 marked.)</p>

<p style="text-align: right;">Page 18</p> <p>1 BURGER</p> <p>2 Q. Mr. Burger, so –</p> <p>3 MR. AIGEN: Sorry was this produced?</p> <p>4 I just want to make sure, is there a Bates</p> <p>5 label on this for the record?</p> <p>6 MR. MORRIS: I don't know but it was</p> <p>7 used in Mr. Dondero's deposition.</p> <p>8 MR. AIGEN: There is a Bates label.</p> <p>9 Q. So Mr. Burger, this is a little</p> <p>10 awkward. Usually in a deposition I would be in</p> <p>11 the room with you and you would have the</p> <p>12 document in front of you and it would be easy</p> <p>13 for you to review the document. Since we can't</p> <p>14 do that, and I don't know that you have this</p> <p>15 particular document in front of you, we've put</p> <p>16 it up on the screen.</p> <p>17 I'm going to ask you a few questions</p> <p>18 about it, but I strongly encourage you, I</p> <p>19 really request that you let me know if you</p> <p>20 believe that there are other portions of the</p> <p>21 document that you need to review in order to</p> <p>22 either refresh your recollection or to put my</p> <p>23 question into context, okay?</p> <p>24 We're just going to have to make due</p> <p>25 with the technology, but with that background,</p>	<p style="text-align: right;">Page 19</p> <p>1 BURGER</p> <p>2 you know, let's – let's go to the – to the</p> <p>3 page ending in 419?</p> <p>4 Do you see there that there are two</p> <p>5 signatures?</p> <p>6 A. Correct.</p> <p>7 Q. And do you understand that those are</p> <p>8 the signatures of James Dondero and Frank</p> <p>9 Waterhouse?</p> <p>10 A. Yes, correct.</p> <p>11 Q. Okay. If we could go back to the</p> <p>12 top of the document, do you understand that</p> <p>13 this is the management representation letter</p> <p>14 that was provided to PwC by Mr. Dondero and</p> <p>15 Mr. Waterhouse on June 3rd, 2019?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know why Mr. Waterhouse and</p> <p>18 Mr. Dondero were the people who signed this</p> <p>19 letter?</p> <p>20 A. Starting with Mr. Waterhouse, he is</p> <p>21 the responsible party from management in the</p> <p>22 sense of being the CFO and Mr. Dondero as the</p> <p>23 general partner because the entity is a limited</p> <p>24 partner and we expect the general partner to</p> <p>25 sign the rep letter.</p>
<p style="text-align: right;">Page 20</p> <p>1 BURGER</p> <p>2 Q. Do you know who drafted this letter?</p> <p>3 A. We did.</p> <p>4 Q. Is this a form of management</p> <p>5 representation that PwC typically prepares in</p> <p>6 the ordinary course of its audits?</p> <p>7 A. Yes, it is derived from a standard</p> <p>8 template.</p> <p>9 Q. And you see in the first paragraph</p> <p>10 there is a reference to the balance sheet date.</p> <p>11 Do I have that right?</p> <p>12 A. Correct.</p> <p>13 Q. And for this particular management</p> <p>14 representation letter, the balance sheet is for</p> <p>15 the fiscal year ending December 31st, 2018;</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. We can scroll down to the bottom,</p> <p>19 but there is – stop right there.</p> <p>20 There is a series of representations</p> <p>21 that are made in this letter. Do you</p> <p>22 understand that?</p> <p>23 A. I do.</p> <p>24 Q. And if we scroll down to, I guess,</p> <p>25 the page ending in 18, you will see that there</p>	<p style="text-align: right;">Page 21</p> <p>1 BURGER</p> <p>2 is 50 separate representations that are made by</p> <p>3 Mr. Waterhouse and Mr. Dondero, not including</p> <p>4 the subparts. Do you see that?</p> <p>5 A. I do.</p> <p>6 MR. MORRIS: And thank you, La Asia,</p> <p>7 if we can go back to the top.</p> <p>8 Q. So even though the audit letter was</p> <p>9 for the fiscal year ending December 31st, 2018,</p> <p>10 do you see in the sentence just before general</p> <p>11 that Mr. Dondero and Mr. Waterhouse confirmed</p> <p>12 based on their then current knowledge that each</p> <p>13 of the 50 representations were still correct as</p> <p>14 of June 3rd, 2019?</p> <p>15 A. I do.</p> <p>16 Q. Okay. And is that a standard</p> <p>17 practice of PwC to require management to</p> <p>18 confirm the accuracy of the representations not</p> <p>19 just as of the end of the fiscal year, but</p> <p>20 carrying through to the date of the completion</p> <p>21 of the audit?</p> <p>22 A. It is.</p> <p>23 Q. And why does PwC require that the</p> <p>24 representations be carried forward to the date</p> <p>25 of the completion of the audit?</p>

<p style="text-align: right;">Page 22</p> <p>1 BURGER</p> <p>2 A. Because per Generally Accepted</p> <p>3 Auditing Standards we have to consider material</p> <p>4 events occurring after year-end but prior to</p> <p>5 our opinion date or prior to on our opinion</p> <p>6 date.</p> <p>7 Q. Okay. And do you see in the middle</p> <p>8 of the first page there there is a paragraph</p> <p>9 that begins "certain representations"?</p> <p>10 A. Yes.</p> <p>11 Q. And you see that there is a</p> <p>12 definition of items that are considered</p> <p>13 material?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know why the management</p> <p>16 representation letter included a definition for</p> <p>17 items considered material?</p> <p>18 A. Because we cannot reasonably – we,</p> <p>19 the basis of an audit is our reasonable</p> <p>20 assurance with deals with our definition –</p> <p>21 which deals with materiality. So if we expect</p> <p>22 management to represent to us, we give them a</p> <p>23 sense of what we consider to be material.</p> <p>24 Q. Okay. And did Highland ever express</p> <p>25 any concerns about PwC's definition of</p>	<p style="text-align: right;">Page 23</p> <p>1 BURGER</p> <p>2 materiality?</p> <p>3 A. Not that I can recall.</p> <p>4 Q. Did PwC rely on Mr. Dondero and</p> <p>5 Mr. Waterhouse to provide all information</p> <p>6 concerning items considered material as defined</p> <p>7 in this letter?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. We did.</p> <p>10 Q. Are you generally aware that from</p> <p>11 time-to-time Highland loaned money to</p> <p>12 Mr. Dondero and certain affiliated entities in</p> <p>13 exchange for promissory notes?</p> <p>14 A. I am.</p> <p>15 Q. Can we call those promissory notes</p> <p>16 the affiliated party notes?</p> <p>17 A. That is fine.</p> <p>18 Q. For purposes of the audits, were the</p> <p>19 makers obligations under the affiliated party</p> <p>20 notes considered receivables of Highland?</p> <p>21 A. Yes, receivables of Highland Capital</p> <p>22 Management, L.P.</p> <p>23 Q. Okay. Can we go to the page that is</p> <p>24 ending in 413?</p> <p>25 I'm just going to ask you a few</p>
<p style="text-align: right;">Page 24</p> <p>1 BURGER</p> <p>2 questions about some of the representations</p> <p>3 here. Do you see, Mr. Burger, representation</p> <p>4 number 11?</p> <p>5 A. I do.</p> <p>6 Q. Does representation number 11 apply</p> <p>7 to the affiliated party notes?</p> <p>8 A. It does.</p> <p>9 Q. Was it PwC's understanding that</p> <p>10 Mr. Dondero and Mr. Waterhouse represented that</p> <p>11 the affiliate party notes represented bona fide</p> <p>12 claims against the makers for transactions</p> <p>13 arising on or before the balance sheet date?</p> <p>14 MR. WANDER: Objection, form.</p> <p>15 A. Correct.</p> <p>16 Q. This is one of the 50</p> <p>17 representations that Mr. Dondero and</p> <p>18 Mr. Waterhouse confirmed as of June 30th, 2019;</p> <p>19 correct?</p> <p>20 A. June 3rd, yes, correct.</p> <p>21 Q. Thank you for the clarification.</p> <p>22 Does the last sentence of representation number</p> <p>23 11 mean that all affiliated party notes were</p> <p>24 current as of June 3rd, 2019?</p> <p>25 A. It does.</p>	<p style="text-align: right;">Page 25</p> <p>1 BURGER</p> <p>2 Q. Stated another way, none of the</p> <p>3 affiliated notes were in default as of June</p> <p>4 30th, 2019; correct?</p> <p>5 A. That's correct.</p> <p>6 Q. All right. If we can go to page</p> <p>7 416, please.</p> <p>8 Take a look at representation number</p> <p>9 32 at the top of the page. Do you have an</p> <p>10 understanding of what representation number 32</p> <p>11 means?</p> <p>12 A. Yeah, that is a representation where</p> <p>13 if we were to find any misstatements which does</p> <p>14 not meet the level of materiality, we would put</p> <p>15 that on what we call a summary of uncorrected</p> <p>16 misstatements. And management would –</p> <p>17 management would defer to the fact that they do</p> <p>18 not consider those adjustments necessary in</p> <p>19 terms of neutrality.</p> <p>20 Q. Did PwC understand that in</p> <p>21 representation number 32 Mr. Dondero and</p> <p>22 Mr. Waterhouse represented that basically if</p> <p>23 they got anything wrong it was not material?</p> <p>24 MR. AIGEN: Objection, form.</p> <p>25 A. That is correct.</p>

<p>Page 26</p> <p>1 BURGER</p> <p>2 Q. And why did PwC request this</p> <p>3 particular representation?</p> <p>4 A. Because if anything gets sort of</p> <p>5 found out to be a potential let's call it error</p> <p>6 to the financial statements, part of the</p> <p>7 standards require us to assert from management</p> <p>8 their view that it is not material.</p> <p>9 Q. Okay. Did PwC rely on</p> <p>10 representation number 32 when signing off on</p> <p>11 the audit?</p> <p>12 MR. AIGEN: Objection, form.</p> <p>13 A. We did.</p> <p>14 Q. Let's look at representation number</p> <p>15 34. Can you tell me what that means from PwC's</p> <p>16 perspective?</p> <p>17 A. It is a assessment of completeness.</p> <p>18 So in other words, management asserting or,</p> <p>19 sorry, representing to us that they are not</p> <p>20 aware of any material transactions or</p> <p>21 agreements or – agreements being out there</p> <p>22 that wasn't recorded in the financial</p> <p>23 statements.</p> <p>24 Q. And why did PwC want this material</p> <p>25 representation?</p>	<p>Page 27</p> <p>1 BURGER</p> <p>2 A. Under as – under standards it is</p> <p>3 not our duty to go out and look for necessarily</p> <p>4 fraud. And you know, it is on the completeness</p> <p>5 of transactions we do rely on management to let</p> <p>6 us know if they were material transactions.</p> <p>7 Q. Did PwC rely on representing –</p> <p>8 withdrawn.</p> <p>9 Did PwC rely on representation</p> <p>10 number 34 when signing off on the audit?</p> <p>11 A. We did.</p> <p>12 Q. Let's take a look at representation</p> <p>13 35D. If you can just read that to yourself for</p> <p>14 a moment?</p> <p>15 A. Excuse me, did you say B or D?</p> <p>16 Q. D as in dog?</p> <p>17 A. D, okay, okay.</p> <p>18 Q. Is it fair to say that in</p> <p>19 representation number 35D, as in dog,</p> <p>20 Mr. Dondero and Mr. Waterhouse represented that</p> <p>21 all material transactions with related parties</p> <p>22 have been properly reported and disclosed in</p> <p>23 the consolidated financial statements?</p> <p>24 A. That's correct.</p> <p>25 Q. Did PwC request this particular</p>
<p>Page 28</p> <p>1 BURGER</p> <p>2 representation?</p> <p>3 A. We did.</p> <p>4 Q. Why?</p> <p>5 A. Again, because it is important under</p> <p>6 alleged party disclosures specifically all</p> <p>7 disclosures but related party specific that if</p> <p>8 you have material transactions or events that</p> <p>9 those be disclosed. And again, we – we do</p> <p>10 rely on management to also take ownership for</p> <p>11 that.</p> <p>12 Q. Okay. Can we go to the next page,</p> <p>13 please, page ending in 417? Okay, right there.</p> <p>14 And take a look at representation number 36,</p> <p>15 please.</p> <p>16 A. Okay, okay.</p> <p>17 Q. Can you tell me from PwC's</p> <p>18 perspective what representation 36 means?</p> <p>19 A. Again, for management to let us know</p> <p>20 or assert to us who the related parties are.</p> <p>21 Q. Is it fair to say that in management</p> <p>22 representation number 36 Mr. Dondero and</p> <p>23 Mr. Waterhouse represented that they had</p> <p>24 disclosed, among other things, all related</p> <p>25 party transactions of which they were aware?</p>	<p>Page 29</p> <p>1 BURGER</p> <p>2 A. Correct.</p> <p>3 Q. And did PwC rely on that</p> <p>4 representation when it signed off on the audit?</p> <p>5 A. We did.</p> <p>6 Q. Go to page 419, please. Okay. Just</p> <p>7 before the signature line there is a sentence</p> <p>8 that begins, "to the best of our knowledge."</p> <p>9 Do you see that?</p> <p>10 A. Correct.</p> <p>11 Q. Can you just read that to yourself?</p> <p>12 A. Okay.</p> <p>13 Q. Can you tell me from PwC's</p> <p>14 perspective what that sentence means?</p> <p>15 A. It means if there were events that</p> <p>16 occurred after the balance sheet date, before</p> <p>17 the opinion date that required disclosure, that</p> <p>18 such disclosures had been made.</p> <p>19 Q. And why did – is that</p> <p>20 representation one that is required by GAAP?</p> <p>21 A. It is – it is a GAAS principle, not</p> <p>22 a GAAP.</p> <p>23 Q. And did PwC rely on that</p> <p>24 representation in the last sentence when it</p> <p>25 signed off on the audits?</p>

<p>Page 30</p> <p>1 BURGER</p> <p>2 A. We did.</p> <p>3 Q. Let's move to the 2017 financial</p> <p>4 statements. Can we please put up the next</p> <p>5 exhibit.</p> <p>6 (Exhibit 2 marked.)</p> <p>7 Q. Again, Mr. Burger, I will just</p> <p>8 remind you that if at any time you believe you</p> <p>9 need to see any other portion of the document</p> <p>10 in order to capably and fully answer the</p> <p>11 question that I ask, just let me know, okay?</p> <p>12 MR. WANDER: John, he has a hard</p> <p>13 copy of this one in front of him.</p> <p>14 Q. Beautiful. Maybe it would be easier</p> <p>15 for you to just take it out and the rest of us</p> <p>16 will just look on the screen.</p> <p>17 MR. MORRIS: Thank you, John.</p> <p>18 Q. Do you have the 2017 audited</p> <p>19 financial statements in front of you, sir?</p> <p>20 A. I do.</p> <p>21 Q. And did you personally lead PwC's</p> <p>22 efforts in completing the audit for the debtors</p> <p>23 for Highland's 2017 financial statements?</p> <p>24 A. Would you mind repeating the</p> <p>25 question?</p>	<p>Page 31</p> <p>1 BURGER</p> <p>2 Q. Did you personally lead PwC's</p> <p>3 efforts in auditing Highland's 2017 financial</p> <p>4 statements?</p> <p>5 A. I did.</p> <p>6 Q. Do you recall any deviations from</p> <p>7 the process that you described earlier in</p> <p>8 connection with the preparation of Highland's</p> <p>9 2017 financial statements?</p> <p>10 A. I do not.</p> <p>11 Q. Can we go to page 2, please, right</p> <p>12 there. Do you see in the top half of the</p> <p>13 screen there is a list of assets?</p> <p>14 A. I do.</p> <p>15 Q. And one of those – one of those</p> <p>16 assets is identified as notes and other amounts</p> <p>17 due from affiliates. Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. And do you know what that relates</p> <p>20 to?</p> <p>21 A. So that is the consolidated amount</p> <p>22 of Highland Capital Management, L.P. with all</p> <p>23 its affiliates of notes and other amounts that</p> <p>24 are due from affiliates as defined.</p> <p>25 Q. Do you know why the notes and other</p>
<p>Page 32</p> <p>1 BURGER</p> <p>2 amounts due from affiliates are carried as</p> <p>3 assets on Highland's balance sheets?</p> <p>4 A. Because it meets the definition of</p> <p>5 an asset.</p> <p>6 Q. And what is the definition of the</p> <p>7 asset – withdrawn.</p> <p>8 What is the definition of an asset</p> <p>9 that causes the notes and other amounts due</p> <p>10 from affiliates to appear on the asset portion</p> <p>11 of the balance sheet?</p> <p>12 A. This is amounts in the forms of</p> <p>13 notes or receivables that the entity has title</p> <p>14 to in the form of an asset, or the classic</p> <p>15 definition of an asset is you are entitled to</p> <p>16 the asset and there is reasonable assurance of</p> <p>17 the recoverability of the asset.</p> <p>18 Q. Did anybody from Highland ever</p> <p>19 dispute that the notes and other amounts due</p> <p>20 from affiliates should be carried on Highland's</p> <p>21 balance sheet as assets?</p> <p>22 MR. AIGEN: Objection, form.</p> <p>23 A. Sorry?</p> <p>24 MR. WANDER: If you understand, you</p> <p>25 can answer.</p>	<p>Page 33</p> <p>1 BURGER</p> <p>2 A. No, no, they did not.</p> <p>3 Q. And that is because these are</p> <p>4 Highland's balance sheets; correct?</p> <p>5 A. Correct.</p> <p>6 Q. Highland, in fact, prepared the</p> <p>7 document that we're looking at right now;</p> <p>8 correct?</p> <p>9 A. Correct, we did not.</p> <p>10 Q. And Highland made the decision to</p> <p>11 record the notes and other amounts due from</p> <p>12 other affiliates as assets on its own balance</p> <p>13 sheet; right?</p> <p>14 MR. AIGEN: Objection, form.</p> <p>15 A. Right.</p> <p>16 Q. Did PwC ever have any reason to</p> <p>17 question the carrying of the notes and other</p> <p>18 amounts due from affiliates as assets on</p> <p>19 Highland's balance sheets?</p> <p>20 A. We did not.</p> <p>21 Q. Is my math right here that the</p> <p>22 balance sheet shows that as of the end of 2017</p> <p>23 notes and other amounts due from affiliates</p> <p>24 constituted more than 10 percent of Highland's</p> <p>25 assets?</p>

<p style="text-align: right;">Page 34</p> <p>1 BURGER</p> <p>2 A. That's correct.</p> <p>3 Q. Okay. If we could just scroll down</p> <p>4 to the bottom of the page. Little further,</p> <p>5 yeah, right there.</p> <p>6 Do you see there is a reference that</p> <p>7 says, quote, the accompanying notes are an</p> <p>8 integral part of these consolidated financial</p> <p>9 statements, closed quote?</p> <p>10 A. I do.</p> <p>11 Q. What does that mean?</p> <p>12 A. That is to draw the attention for</p> <p>13 the reader of not reading this page in a</p> <p>14 stand-alone basis, because there are further</p> <p>15 explanations required to the amounts in the</p> <p>16 footnotes.</p> <p>17 Q. Okay. Let's go to page 28 of the</p> <p>18 document. Okay. Do you see that there is a</p> <p>19 Section 9 entitled related party transactions?</p> <p>20 A. I do.</p> <p>21 Q. And can you describe for me your</p> <p>22 understanding of why there is a note dedicated</p> <p>23 to related party transactions?</p> <p>24 A. It is a GAAP requirement for</p> <p>25 financial statements to disclose material</p>	<p style="text-align: right;">Page 35</p> <p>1 BURGER</p> <p>2 related-party relationships and transactions.</p> <p>3 Q. If we can go to page 30, please, and</p> <p>4 just scroll straight down so Mr. Burger can see</p> <p>5 what he's got front of him, if we can go to</p> <p>6 page 30.</p> <p>7 Page 30 has a subheading to note 9</p> <p>8 called notes and other amounts due from</p> <p>9 affiliates. Do you see that?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. And do I have it –</p> <p>12 withdrawn.</p> <p>13 Highland prepared all of the</p> <p>14 information that is set forth in this section</p> <p>15 of note 9; is that correct?</p> <p>16 MR. AIGEN: Objection, form.</p> <p>17 A. I did.</p> <p>18 Q. Is it fair to say that this portion</p> <p>19 of note 9 is intended to describe obligations</p> <p>20 due to the debtor by affiliates?</p> <p>21 MR. AIGEN: Objection, form.</p> <p>22 A. That's correct.</p> <p>23 Q. Let me ask a different question to</p> <p>24 deal with Michael's objection.</p> <p>25 Can you tell me, Mr. Burger, what</p>
<p style="text-align: right;">Page 36</p> <p>1 BURGER</p> <p>2 information is conveyed in the section called</p> <p>3 notes and other amounts due from affiliates?</p> <p>4 MR. AIGEN: Objection, form.</p> <p>5 MR. WANDER: You can answer.</p> <p>6 A. I can answer, sorry.</p> <p>7 The purpose of this footnote is to</p> <p>8 strike out out – because if you look at the</p> <p>9 balance sheet you just see notes and you have</p> <p>10 no idea who that is from, which amounts and</p> <p>11 what the basic terms are.</p> <p>12 Q. Is it your understanding that this</p> <p>13 section of note 9 sets forth the amounts due</p> <p>14 and owing by each affiliate as of December</p> <p>15 31st, 2017?</p> <p>16 A. That's correct.</p> <p>17 Q. And are the amounts included – are</p> <p>18 those amounts included in the line item that we</p> <p>19 just looked at in the balance sheet called</p> <p>20 notes and other amounts due from affiliates?</p> <p>21 A. Correct.</p> <p>22 Q. Do you know who calculated the</p> <p>23 amounts due and owing by each affiliate as of</p> <p>24 December 31st, 2017?</p> <p>25 A. It was management.</p>	<p style="text-align: right;">Page 37</p> <p>1 BURGER</p> <p>2 Q. Okay. Did management ever tell PwC</p> <p>3 at any time prior to June – withdrawn.</p> <p>4 Did management ever tell PwC at any</p> <p>5 time prior to PwC's signing off on the audited</p> <p>6 financial statements for 2017 that there was</p> <p>7 anything inaccurate about this section of the</p> <p>8 notes?</p> <p>9 MR. AIGEN: Objection, form.</p> <p>10 A. They did not.</p> <p>11 Q. Each of the paragraph ends with a</p> <p>12 sentence that may differ only in as to whether</p> <p>13 it is singular or plural, but it says quote,</p> <p>14 the fair value of the partnership's outstanding</p> <p>15 notes receivable approximates the carrying</p> <p>16 value of the notes receivable. Do you see</p> <p>17 that?</p> <p>18 A. Correct.</p> <p>19 Q. And we can scroll down a little bit</p> <p>20 just so you can – you have got the document in</p> <p>21 front of you. I would just ask you to confirm</p> <p>22 that each paragraph ends with the same sentence</p> <p>23 except for the last paragraph. And does it,</p> <p>24 sir?</p> <p>25 A. Yes, it is on each paragraph for</p>

<p>Page 38</p> <p>1 BURGER</p> <p>2 that section of the notes except the paragraph</p> <p>3 starting on December 21st, 2015.</p> <p>4 Q. Do you have an understanding of what</p> <p>5 that sentence means?</p> <p>6 A. That sentence means that these notes</p> <p>7 are per GAAP, the notes are supposed to be</p> <p>8 recorded at fair value and the assertion is</p> <p>9 that the carrying value is considered a</p> <p>10 reasonable proxy for fair value.</p> <p>11 Q. I'm sorry, what is fair value in</p> <p>12 this context?</p> <p>13 A. Fair value of all assets would be</p> <p>14 what you consider to be the reasonable value</p> <p>15 for exchange of the asset.</p> <p>16 Q. And then what is the carrying value?</p> <p>17 How does that differ from the carrying value?</p> <p>18 A. Carrying value is the -- is a</p> <p>19 contractual, is the term of the contractual</p> <p>20 amount. In other words, whatever their loan</p> <p>21 plus accrued interest minus payments. And fair</p> <p>22 value is -- is basically the concept of this</p> <p>23 sentence is stating that the fair value of the</p> <p>24 approximate or reasonable proxy for carrying</p> <p>25 value in its (inaudible).</p>	<p>Page 39</p> <p>1 BURGER</p> <p>2 Q. So is it fair to say that based on</p> <p>3 this portion of note 9, the debtors' financial</p> <p>4 statements -- withdrawn.</p> <p>5 Is it fair to say that based on this</p> <p>6 portion of note 9, Highland is saying that the</p> <p>7 fair value of the promissory notes from the</p> <p>8 affiliates was approximately equal to the</p> <p>9 principal and interest then due under the</p> <p>10 notes?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. That's correct.</p> <p>13 Q. Is it fair to say that when the</p> <p>14 audit -- withdrawn.</p> <p>15 Is it fair to say that -- no,</p> <p>16 withdrawn.</p> <p>17 At the time the audit was completed</p> <p>18 for 2017, did PwC have any reason to discount</p> <p>19 the value of any of the notes described on page</p> <p>20 30 or 31?</p> <p>21 A. We did not.</p> <p>22 Q. Okay. Can we go to page 41, please.</p> <p>23 If you scroll down a little bit you will see</p> <p>24 there is a section entitled subsequent events</p> <p>25 which is note 16. Do you see that?</p>
<p>Page 40</p> <p>1 BURGER</p> <p>2 A. Correct.</p> <p>3 Q. Okay. What is this section intended</p> <p>4 to capture?</p> <p>5 A. This is supposed to capture any</p> <p>6 significant material events that occurred after</p> <p>7 the balance sheet that requires disclosure.</p> <p>8 Q. And is the information described</p> <p>9 here information that was provided by Highland</p> <p>10 Capital?</p> <p>11 A. Yeah, correct, by management.</p> <p>12 Q. This section notes that Mr. Dondero</p> <p>13 issued promissory notes to the partnership in</p> <p>14 the amount of \$11.7 million in 2018. Do you</p> <p>15 see that?</p> <p>16 A. I do.</p> <p>17 Q. Those obligations are not included</p> <p>18 in the balance sheet that we looked at earlier</p> <p>19 for the period ending December 31st, 2017;</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. The notes issued by Mr. Dondero are</p> <p>23 the only material subsequent event that PwC was</p> <p>24 informed about; is that correct?</p> <p>25 A. Correct.</p>	<p>Page 41</p> <p>1 BURGER</p> <p>2 Q. Let's go to the 2017 workpapers, if</p> <p>3 we can call it the next exhibit, please.</p> <p>4 (Exhibit 3 marked.)</p> <p>5 Q. All right. I've put up on the</p> <p>6 screen what I believe are PwC's workpapers in</p> <p>7 connection with the 2017 audit as it pertains</p> <p>8 to notes and other amounts due from affiliates.</p> <p>9 Is that an accurate way to describe this</p> <p>10 particular document?</p> <p>11 A. Yes, it would be a workpaper that we</p> <p>12 retain in our file.</p> <p>13 Q. Was it prepared in connection with</p> <p>14 the 2017 audit?</p> <p>15 A. Yes, this one was.</p> <p>16 Q. And when I use the phrase "2017</p> <p>17 audit," I'm specifically talking about the</p> <p>18 audit that was prepared for the financial</p> <p>19 statements for the fiscal year ending December</p> <p>20 31st, 2017. Do you understand that?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. Who prepared this particular</p> <p>23 document?</p> <p>24 A. Who prepared it?</p> <p>25 Q. I apologize, who prepared it?</p>

<p style="text-align: right;">Page 42</p> <p>1 BURGER</p> <p>2 A. Sorry, Hilda Garcia.</p> <p>3 Q. Hilda Garcia, is she employed by</p> <p>4 PwC?</p> <p>5 A. She is.</p> <p>6 Q. And what is her title?</p> <p>7 A. She is a senior associate now. She</p> <p>8 would have been a senior associate back then as</p> <p>9 well.</p> <p>10 Q. Does she report to you or to</p> <p>11 somebody else?</p> <p>12 A. She reports to me.</p> <p>13 Q. And are you responsible for</p> <p>14 overseeing Ms. Garcia's work?</p> <p>15 A. I am.</p> <p>16 Q. And what is the purpose of this</p> <p>17 document?</p> <p>18 A. The purpose of this document is to</p> <p>19 layout what are the amounts that makes up the</p> <p>20 line item that is on the balance sheet of</p> <p>21 HCMLP. And then the audit procedure is</p> <p>22 performed to gain comfort over those – the</p> <p>23 existence of those amounts based on</p> <p>24 materiality.</p> <p>25 Q. And did PwC prepare workpapers of</p>	<p style="text-align: right;">Page 43</p> <p>1 BURGER</p> <p>2 this type in the ordinary course of its</p> <p>3 business?</p> <p>4 A. We do.</p> <p>5 Q. And did PwC prepare this particular</p> <p>6 workpaper in the ordinary course of its</p> <p>7 preparation of Highland's 2017 audit?</p> <p>8 A. We did.</p> <p>9 Q. Okay. Can we go to the tab that is</p> <p>10 marked as detailed, if you look at the bottom?</p> <p>11 Do you have that, sir?</p> <p>12 A. Yes, I have.</p> <p>13 Q. Is that tab intended to list all of</p> <p>14 the – of the notes and other amounts due from</p> <p>15 affiliates that were outstanding at the end of</p> <p>16 the fiscal year?</p> <p>17 A. Correct.</p> <p>18 Q. And is this information – where did</p> <p>19 PwC get the information that is set forth on</p> <p>20 the detail tab?</p> <p>21 A. It is from management from the trial</p> <p>22 balance.</p> <p>23 Q. For the record, can you just tell me</p> <p>24 what a trial balance is?</p> <p>25 A. So that is a summary document</p>
<p style="text-align: right;">Page 44</p> <p>1 BURGER</p> <p>2 listing out the balances of all accounts from</p> <p>3 the general ledger that is used to produce the</p> <p>4 set of financial statements.</p> <p>5 Q. And was the trial balance made</p> <p>6 available to PwC by Highland in connection with</p> <p>7 its audit work?</p> <p>8 A. It was.</p> <p>9 Q. The next tab is marked credit risk</p> <p>10 analysis. Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. What is the purpose of the credit</p> <p>13 risk analysis?</p> <p>14 A. The purpose of this is that if you</p> <p>15 think about a receivable or any amount due it</p> <p>16 is about intent and ability. And this is where</p> <p>17 we deal with ability to ask ourself the</p> <p>18 question is the counterparty reasonably able to</p> <p>19 repay the amounts.</p> <p>20 Q. And did PwC conclude in 2000 – in</p> <p>21 connection with the 2017 audit that the makers</p> <p>22 of the notes set forth on this particular slide</p> <p>23 had the ability to pay?</p> <p>24 A. In our opinion, yes.</p> <p>25 Q. Okay. And did PwC base that opinion</p>	<p style="text-align: right;">Page 45</p> <p>1 BURGER</p> <p>2 on the information that was provided by</p> <p>3 management?</p> <p>4 MR. AIGEN: Objection, form.</p> <p>5 A. Partly management and partly our own</p> <p>6 due diligence.</p> <p>7 Q. Okay. The next tab is results</p> <p>8 template. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Can you just explain to me what that</p> <p>11 page is, if we could scroll to the top, please?</p> <p>12 A. This – there are a number of notes</p> <p>13 that are being dealt with. This – so if you</p> <p>14 go back to the detail tab, those are the</p> <p>15 individual notes that makes up the amount that</p> <p>16 ties to the back of the financial statement.</p> <p>17 And there are relevant tabs here that deal with</p> <p>18 a number of these loans. In preparation for</p> <p>19 this, we focused on due from HCMSI as that is</p> <p>20 under question.</p> <p>21 Q. Why is due from HCMSI under</p> <p>22 question?</p> <p>23 A. That is my understanding of what the</p> <p>24 deposition relates to.</p> <p>25 MR. WANDER: When he says in</p>

<p>Page 46</p> <p>1 BURGER</p> <p>2 preparation for this, he means in</p> <p>3 preparation for the deposition he reviewed</p> <p>4 this piece of it, the HCMSI. Not the rest</p> <p>5 of the notes, just HCMSI.</p> <p>6 Q. Okay. So, so but with respect to</p> <p>7 this particular page, is there an analysis that</p> <p>8 PwC is undertaking? Does this reflect an –</p> <p>9 withdrawn.</p> <p>10 Does this page reflect an analysis</p> <p>11 that PwC did?</p> <p>12 MR. AIGEN: Objection, form.</p> <p>13 A. If you add the other relevant tabs</p> <p>14 to it, yes. So in other words, some of them</p> <p>15 link to other tabs. Some of them have</p> <p>16 individual documentation as referenced in the</p> <p>17 marked legends.</p> <p>18 Q. And then there are tabs for the</p> <p>19 individual maker of each set of notes. Do I</p> <p>20 have that right?</p> <p>21 A. Correct.</p> <p>22 Q. All right. Let's go to the 2018</p> <p>23 financial statements, please. Are you familiar</p> <p>24 with Highland's audited financial statements</p> <p>25 for the period ending December 31st, 2018?</p>	<p>Page 47</p> <p>1 BURGER</p> <p>2 A. I am.</p> <p>3 MR. AIGEN: Sorry to interrupt. Are</p> <p>4 you marking this? I'm trying to keep</p> <p>5 track, is this –</p> <p>6 MR. MORRIS: Yes, I apologize, this</p> <p>7 will be Exhibit 4.</p> <p>8 (Exhibit 4 marked.)</p> <p>9 MR. AIGEN: 4, okay.</p> <p>10 Q. And did you oversee the preparation</p> <p>11 of the audited financial statements on behalf</p> <p>12 of PwC for the period ending December 31st,</p> <p>13 2018?</p> <p>14 A. Correction, not preparation, we</p> <p>15 don't prepare any of these documents.</p> <p>16 Q. Let – I apologize, let me restate</p> <p>17 the question.</p> <p>18 Did you oversee PwC's audit of</p> <p>19 Highland's financial statements for the period</p> <p>20 ending December 31st, 2018?</p> <p>21 A. Yeah, I did.</p> <p>22 Q. Okay. Do you recall any deviations</p> <p>23 from the process you described earlier in</p> <p>24 connection with the preparation of the 2018</p> <p>25 audited financials?</p>
<p>Page 48</p> <p>1 BURGER</p> <p>2 A. No, I do not.</p> <p>3 Q. Can we go to the third page of the</p> <p>4 document right there. This document is dated,</p> <p>5 if you look at the bottom, June 3rd, 2019. Do</p> <p>6 you see that?</p> <p>7 A. I do.</p> <p>8 Q. And that was the same date as the</p> <p>9 management representation letter that we looked</p> <p>10 at earlier, do you recall that? We can pull it</p> <p>11 up.</p> <p>12 A. No, I do.</p> <p>13 Q. Is it a coincidence that they both</p> <p>14 have the same date?</p> <p>15 A. No, it is not. We require that to</p> <p>16 be the same.</p> <p>17 Q. And why do you require that the</p> <p>18 management representation letter and the report</p> <p>19 of independent auditors be issued on the same</p> <p>20 day?</p> <p>21 A. This is – this is the date that we</p> <p>22 effectively consider these financials available</p> <p>23 to be issued. And under standards, we are</p> <p>24 required to consider all subsequent events and</p> <p>25 representations up to this date. So therefore,</p>	<p>Page 49</p> <p>1 BURGER</p> <p>2 we cannot accept a date of, let's call it June</p> <p>3 2nd or 1st or earlier from management's</p> <p>4 representation.</p> <p>5 Q. Is – is the report that is set out</p> <p>6 here required by either GAAS or GAAP?</p> <p>7 A. This is – GAAS requires the audit</p> <p>8 opinion to be – to be the document whereby we</p> <p>9 report to the general partner on our – on our</p> <p>10 audit.</p> <p>11 Q. And does PwC have an internal</p> <p>12 process by which it determines whether or not</p> <p>13 to sign-off on – on any particular client's</p> <p>14 audit?</p> <p>15 A. We do.</p> <p>16 Q. Can you describe that process for me</p> <p>17 generally?</p> <p>18 A. From an acceptance phase of the</p> <p>19 client or do you mean the content of their</p> <p>20 opinion?</p> <p>21 Q. The content of the opinion, thank</p> <p>22 you.</p> <p>23 A. Yes. So there is a framework that</p> <p>24 we follow on going back to whether there –</p> <p>25 whether we consider two things. Whether there</p>

<p style="text-align: right;">Page 50</p> <p>1 BURGER</p> <p>2 are material uncorrected misstatements to the</p> <p>3 financials or material deviations from required</p> <p>4 disclosures. So in other words, are the</p> <p>5 financials reasonable and accurate in terms of</p> <p>6 GAAP, and were we able to perform all the</p> <p>7 procedures. So in other words there weren't</p> <p>8 any undue scope limitations which – which got</p> <p>9 us to a point we weren't able to perform the</p> <p>10 audit and fulfill our professional duty.</p> <p>11 If the answer to those are that we</p> <p>12 fulfill both then we would give what we call an</p> <p>13 unqualified or a clean opinion.</p> <p>14 Q. And is there an opinion committee</p> <p>15 that is – that is dedicated to this process?</p> <p>16 A. No, it is – if it is a clean</p> <p>17 opinion then it is the partner and if</p> <p>18 applicable the second partner on the engagement</p> <p>19 is called. If there is anything which goes</p> <p>20 away from an unqualified opinion, in any</p> <p>21 deviation, then there is a whole consultation</p> <p>22 process with our national office.</p> <p>23 Q. And did you personally approve this</p> <p>24 opinion letter?</p> <p>25 A. I did, that is my signature.</p>	<p style="text-align: right;">Page 51</p> <p>1 BURGER</p> <p>2 Q. Okay. Let's go to page 2, please,</p> <p>3 consolidated balance sheet.</p> <p>4 Do you see, again, there is the</p> <p>5 notes and other amounts due from affiliates?</p> <p>6 A. I do.</p> <p>7 Q. And does this just carry over from</p> <p>8 the prior years subject to any payments or</p> <p>9 additional notes subject to any changes since</p> <p>10 the end of the prior fiscal year?</p> <p>11 A. It does.</p> <p>12 Q. As of the end of 2018, is it fair to</p> <p>13 say that the notes and other amounts due from</p> <p>14 affiliates now exceeded more than 15 percent of</p> <p>15 Highland's assets?</p> <p>16 A. That is correct.</p> <p>17 Q. Now, let's go to page 26, please.</p> <p>18 And you will see number – note number 8</p> <p>19 relates to related-party transactions. Do you</p> <p>20 see that?</p> <p>21 A. I do.</p> <p>22 Q. So again, do I have this right that</p> <p>23 this section of the notes is intended to</p> <p>24 provide the detail about transactions between</p> <p>25 Highland and related parties?</p>
<p style="text-align: right;">Page 52</p> <p>1 BURGER</p> <p>2 A. It is.</p> <p>3 Q. And that is required by GAAP, do I</p> <p>4 have that right?</p> <p>5 A. You have got it correct.</p> <p>6 Q. Okay. Let's go to page 28, please.</p> <p>7 Do you see on page 28 and continuing</p> <p>8 on page 29 there is again a section of note 9</p> <p>9 entitled notes and other amounts due from</p> <p>10 affiliates?</p> <p>11 A. I do.</p> <p>12 Q. And this information was provided by</p> <p>13 management, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And this portion of note 8 is</p> <p>16 intended to describe the obligations that were</p> <p>17 owed to the debtor by affiliates; correct?</p> <p>18 A. Correct.</p> <p>19 Q. Does this section of note 8 set</p> <p>20 forth the amounts that were due and owing by</p> <p>21 each affiliate as of the end of fiscal year</p> <p>22 2018?</p> <p>23 A. It does.</p> <p>24 Q. And are those amounts included in</p> <p>25 the line item that we just looked at on the</p>	<p style="text-align: right;">Page 53</p> <p>1 BURGER</p> <p>2 balance sheet called notes and other amounts</p> <p>3 due from affiliates?</p> <p>4 A. It is.</p> <p>5 Q. And can you confirm for me that</p> <p>6 management is the one who decided – withdrawn.</p> <p>7 Can you confirm for me that</p> <p>8 management is the one who calculated the</p> <p>9 amounts due and owing by each affiliate as of</p> <p>10 December 31st, 2018?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. That is correct.</p> <p>13 Q. To the best of your knowledge, did</p> <p>14 anybody from Highland ever tell anybody from</p> <p>15 PwC that any of the amounts due and owing as</p> <p>16 set forth in the notes and other amounts due</p> <p>17 from affiliates was wrong or incorrect?</p> <p>18 A. Not to my knowledge.</p> <p>19 Q. And can you confirm for me that in</p> <p>20 connection with the 2018 financial statements</p> <p>21 Highland again stated in general that the fair</p> <p>22 value of the notes and other amounts due from</p> <p>23 affiliates approximates the carrying value of</p> <p>24 the notes receivable?</p> <p>25 A. That's correct.</p>

<p style="text-align: right;">Page 54</p> <p>1 BURGER</p> <p>2 Q. Is it fair to say that when PwC</p> <p>3 issued its audit opinion on June 3rd, 2019 that</p> <p>4 they had no reason to discount the fair value</p> <p>5 of any of the notes described in this portion</p> <p>6 of note 8?</p> <p>7 MR. AIGEN: Objection, form.</p> <p>8 A. Yeah, that is correct.</p> <p>9 Q. Let's go to page 38, please, note</p> <p>10 15. Do you see note 15 beginning on page 38?</p> <p>11 A. I do.</p> <p>12 Q. And is this the section of the notes</p> <p>13 that are intended to describe material</p> <p>14 subsequent events that would require</p> <p>15 disclosure?</p> <p>16 A. It is.</p> <p>17 Q. And is the information set forth in</p> <p>18 section 15 or note 15 information that was</p> <p>19 provided by Highland?</p> <p>20 A. Correct.</p> <p>21 Q. To the best of PwC's knowledge, as</p> <p>22 of June 3rd, 2019, did note 15 in fact include</p> <p>23 a description of all material subsequent events</p> <p>24 that required disclosure?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 55</p> <p>1 BURGER</p> <p>2 Q. Did anyone – withdrawn.</p> <p>3 Do you know whether anyone from</p> <p>4 Highland ever informed anyone at PwC that there</p> <p>5 were material subsequent events that were</p> <p>6 omitted from note 15?</p> <p>7 A. I'm not.</p> <p>8 Q. Let's go to the 2018 workpapers.</p> <p>9 (Exhibit 5 marked.)</p> <p>10 Q. We will mark this as Exhibit 5.</p> <p>11 MR. MORRIS: I am trying to go as</p> <p>12 quickly as I can, Michael, to leave you a</p> <p>13 little time.</p> <p>14 MR. AIGEN: Thanks.</p> <p>15 Q. Do you have that, Mr. Burger?</p> <p>16 A. Yeah, I do.</p> <p>17 MR. AIGEN: This is Exhibit 5, John?</p> <p>18 MR. MORRIS: Yes.</p> <p>19 Q. Is there anything that you need to</p> <p>20 look at, Mr. Burger, to confirm that these are</p> <p>21 PwC's workpapers for the 2018 audit as it</p> <p>22 relates to notes and other amounts due from</p> <p>23 affiliates?</p> <p>24 A. I can confirm.</p> <p>25 Q. Okay. And was this also prepared in</p>
<p style="text-align: right;">Page 56</p> <p>1 BURGER</p> <p>2 the first instance by Ms. Garcia?</p> <p>3 A. No, this was prepared by Madeline</p> <p>4 Pacocha.</p> <p>5 Q. How do you spell her last name?</p> <p>6 A. P-a-c-o-c-h-a.</p> <p>7 Q. And did she report directly to you?</p> <p>8 A. She did. She was part of the team.</p> <p>9 Q. Okay. And do you know whether the</p> <p>10 same process that was followed in 2018 was</p> <p>11 followed in 2000 – withdrawn.</p> <p>12 Did PwC follow the same process in</p> <p>13 creating this document that it did when it</p> <p>14 created the workpapers in 2017?</p> <p>15 A. We did.</p> <p>16 Q. Can you confirm that this document</p> <p>17 was prepared in the ordinary course of PwC's</p> <p>18 business?</p> <p>19 A. It was.</p> <p>20 Q. Can you confirm that this document</p> <p>21 was prepared in the ordinary course of PwC's</p> <p>22 audit of Highland's 2018 financial statements?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. I'm going to ask a few more</p> <p>25 detailed questions than we did last time. Can</p>	<p style="text-align: right;">Page 57</p> <p>1 BURGER</p> <p>2 we go to the section called credit risk</p> <p>3 analysis, the tab.</p> <p>4 I think earlier you testified that</p> <p>5 there was kind of two aspects that PwC looked</p> <p>6 at when analyzing the notes and they were the</p> <p>7 intent and the ability to pay. Do I have that</p> <p>8 right?</p> <p>9 MR. AIGEN: Objection, form.</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. And this particular tab,</p> <p>12 credit risk analysis, related to the ability to</p> <p>13 pay part of that analysis; correct?</p> <p>14 A. That's correct.</p> <p>15 Q. Do you see there is a column called</p> <p>16 recoverability?</p> <p>17 A. I do.</p> <p>18 Q. What is that?</p> <p>19 A. That is a qualitative assessment to</p> <p>20 give us reasonable assurance that these notes</p> <p>21 are, A, not in default or – and B, that the –</p> <p>22 at least materially the maker has enough assets</p> <p>23 that we are aware of to – to be able to repay.</p> <p>24 Q. And did Highland provide the data</p> <p>25 and information related to each maker's ability</p>

<p>Page 58</p> <p>1 BURGER</p> <p>2 to pay?</p> <p>3 A. This is a combination but most of</p> <p>4 this is our own due diligence.</p> <p>5 Q. And – and can you describe for me</p> <p>6 what steps in the due diligence process PwC</p> <p>7 undertook to ascertain whether the makers have</p> <p>8 the ability to pay?</p> <p>9 A. Mostly – mostly relates to evidence</p> <p>10 that there are payments on notes and that none</p> <p>11 of the notes are contractually in default. And</p> <p>12 then also very much specifically to</p> <p>13 Mr. Dondero's ability from known assets that</p> <p>14 can be found on public filings.</p> <p>15 Q. And did PwC analyze public filings</p> <p>16 and conclude that Mr. Dondero had the ability</p> <p>17 to repay the notes that had – that he had</p> <p>18 issued to the debtor?</p> <p>19 A. Through public filings which we</p> <p>20 could obtain, we could at least assess that</p> <p>21 there are assets in those, sort of let's call</p> <p>22 it public filings that would be adequate to</p> <p>23 repay the amounts.</p> <p>24 Q. Is it fair to say that this section</p> <p>25 of the workpapers is an assessment of each</p>	<p>Page 59</p> <p>1 BURGER</p> <p>2 affiliate's creditworthiness?</p> <p>3 A. Not each individual, but on a more</p> <p>4 look-through basis to specifically Mr. Dondero.</p> <p>5 The purpose of this is not to sign-off on an</p> <p>6 absolute creditworthiness of each party, but to</p> <p>7 provide enough evidence to give us reasonable</p> <p>8 assurance that these notes are recoverable.</p> <p>9 Q. And based on the due diligence that</p> <p>10 PwC did and the information provided by</p> <p>11 Highland, did PwC conclude that the makers of</p> <p>12 the notes had the ability to repay the</p> <p>13 obligations set forth therein?</p> <p>14 A. We did.</p> <p>15 Q. Did PwC rely on the analysis set</p> <p>16 forth on this document in deciding to issue the</p> <p>17 opinion in connection – the clean opinion in</p> <p>18 connection with the 2018 audit?</p> <p>19 A. Yeah, this is part of our workpapers</p> <p>20 which forms the collective base of our opinion,</p> <p>21 yes.</p> <p>22 Q. If PwC had any concerns that any</p> <p>23 maker was unable to repay the obligations under</p> <p>24 any of the notes made to Highland, is there a</p> <p>25 process or what would happen under that</p>
<p>Page 60</p> <p>1 BURGER</p> <p>2 circumstance?</p> <p>3 MR. AIGEN: Objection, form.</p> <p>4 A. Do I answer that?</p> <p>5 MR. WANDER: Yes.</p> <p>6 A. If we become aware of any data or</p> <p>7 anything which shows us that a counterparty</p> <p>8 cannot repay the note, the question stems to</p> <p>9 management as to why they consider the note</p> <p>10 fully recoverable. Because the fact that there</p> <p>11 is a note with a legal agreement to it doesn't</p> <p>12 mean – there may be adverse data that show</p> <p>13 that the counterparty is not able to pay and</p> <p>14 that then results in additional work to assess</p> <p>15 whether that loan can be recorded at its full</p> <p>16 value.</p> <p>17 Q. But in connection with the 2018</p> <p>18 audit, management represented that each of the</p> <p>19 notes was fully recoverable. Do I have that</p> <p>20 right?</p> <p>21 MR. AIGEN: Objection, form.</p> <p>22 A. They did.</p> <p>23 Q. Let's go to the results template,</p> <p>24 please.</p> <p>25 Now, do you see that there is</p>	<p>Page 61</p> <p>1 BURGER</p> <p>2 approximately 116 or 117 – withdrawn.</p> <p>3 Do you see that there is</p> <p>4 approximately \$116 difference between the</p> <p>5 amount per client and the balance per testing?</p> <p>6 A. Yes, I do.</p> <p>7 Q. Okay. What – what does –</p> <p>8 withdrawn.</p> <p>9 Is the amount per client the total</p> <p>10 principal and interest due as of the balance</p> <p>11 sheet date for each of the makers listed under</p> <p>12 the account description column?</p> <p>13 A. That is the amount that is obtained</p> <p>14 from the trial balance that is used for the</p> <p>15 financial statements –</p> <p>16 Q. Okay.</p> <p>17 A. – in Column D.</p> <p>18 Q. And did PwC then test those amounts</p> <p>19 for accuracy or reasonableness?</p> <p>20 A. For reasonableness we went back if</p> <p>21 material to the appropriate legal agreements.</p> <p>22 MR. AIGEN: I didn't want to</p> <p>23 interrupt, but I was objecting to form with</p> <p>24 that one.</p> <p>25 Q. And based on the testing that PwC</p>

<p>Page 62</p> <p>1 BURGER</p> <p>2 did, did it reach any conclusions as to the</p> <p>3 reliability of the debtors' of Highland's</p> <p>4 assessment as to the amount owed by each</p> <p>5 client?</p> <p>6 A. Do you mind repeating that question?</p> <p>7 Q. Yeah, that wasn't very good.</p> <p>8 What is the purpose of the testing</p> <p>9 that -- that was undertaken that is reflected</p> <p>10 on this page?</p> <p>11 A. So the purpose is, again, the 173 is</p> <p>12 the amount that goes to the line item in</p> <p>13 question that we are or that part of feeds into</p> <p>14 another tab called detail, which goes back into</p> <p>15 the detail.</p> <p>16 So from there if we have a balance</p> <p>17 as recorded in the financial statements we need</p> <p>18 to obtain the detail behind that, what makes up</p> <p>19 those amounts. And for each one individually</p> <p>20 or collective material, we need to test the, A,</p> <p>21 the existence of the amount and, B, the</p> <p>22 evaluation of the amount.</p> <p>23 Q. Let's go to the next tab, due from</p> <p>24 HCMSI. Do you see that?</p> <p>25 A. I do.</p>	<p>Page 63</p> <p>1 BURGER</p> <p>2 Q. So does this show that an entity</p> <p>3 known as HCMSI had principal and interest due</p> <p>4 on one or more promissory notes totaling</p> <p>5 approximately 13 and a half million dollars?</p> <p>6 A. It is three promissory notes, which</p> <p>7 adds up to approximately 13.9 million dollars.</p> <p>8 Q. Okay. So promissory note one is on</p> <p>9 the left where it says closing date May 31,</p> <p>10 2017. Do I have that right?</p> <p>11 A. Correct.</p> <p>12 Q. And if we scroll down promissory --</p> <p>13 where is the second promissory note?</p> <p>14 A. Just go over to column R and then</p> <p>15 AB, I can read.</p> <p>16 Q. Okay. So then -- so that is the</p> <p>17 second promissory note is the one that was</p> <p>18 issued on June 25th, 2018 in the amount of</p> <p>19 \$200,000, and then the third one is issued on</p> <p>20 March 26th, 2018 in the amount of \$150,000. Do</p> <p>21 I have that right?</p> <p>22 A. That's correct.</p> <p>23 Q. And this shows that under the first</p> <p>24 note, if we could go to the left a bit, that</p> <p>25 HCMSI paid Highland exactly \$1 million on</p>
<p>Page 64</p> <p>1 BURGER</p> <p>2 October 8th, 2018 that was allocated -- a</p> <p>3 portion of which was allocated to principal and</p> <p>4 a portion of which was allocated to interest?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. Let's go to the next tab,</p> <p>7 Dondero tax loans. Do you know why the loans</p> <p>8 to Mr. Dondero are described as tax loans?</p> <p>9 A. It is -- it is described as tax loan</p> <p>10 to facilitate tax payments based on earnings is</p> <p>11 my understanding.</p> <p>12 Q. Did PwC ever make any inquiry as to</p> <p>13 whether the amounts loaned to Mr. Dondero</p> <p>14 approximated the amount of tax liability that</p> <p>15 he faced?</p> <p>16 MR. AIGEN: Objection, form.</p> <p>17 A. We did not.</p> <p>18 Q. Does PwC have any information as to</p> <p>19 whether or not the loans made to Mr. Dondero</p> <p>20 were related in any way to his actual tax</p> <p>21 obligations?</p> <p>22 MR. AIGEN: Objection, form.</p> <p>23 A. We did not. We didn't consider it</p> <p>24 necessary.</p> <p>25 Q. Did PwC make any inquiry as to the</p>	<p>Page 65</p> <p>1 BURGER</p> <p>2 purpose of the loans to Mr. Dondero?</p> <p>3 MR. AIGEN: Objection, form.</p> <p>4 A. In general.</p> <p>5 Q. In general you made an inquiry?</p> <p>6 A. Yeah, as to the -- the -- as to</p> <p>7 whether these loans are considered reasonable</p> <p>8 and arm's length.</p> <p>9 Q. What information do you recall that</p> <p>10 you have whether the loans were reasonable and</p> <p>11 arm's length?</p> <p>12 A. Related to the notes being at an</p> <p>13 interest rate which is considered a reasonable</p> <p>14 interest rate considering all the parties</p> <p>15 involved. And then more on, you know, again,</p> <p>16 the testing that were done and the existence of</p> <p>17 the notes.</p> <p>18 Q. Did PwC make any inquiry as to the</p> <p>19 purpose of any of the loans to any of the</p> <p>20 affiliates including Mr. Dondero?</p> <p>21 A. We did.</p> <p>22 Q. Okay. With respect to Mr. Dondero,</p> <p>23 do you have any information that you haven't</p> <p>24 already provided as to PwC's understanding of</p> <p>25 the purpose of the loans?</p>

<p style="text-align: right;">Page 66</p> <p>1 BURGER</p> <p>2 MR. AIGEN: Objection.</p> <p>3 A. No.</p> <p>4 Q. No. And who – who told PwC, if you</p> <p>5 know, that the loans were being made to</p> <p>6 Mr. Dondero to pay tax payments based on</p> <p>7 earnings?</p> <p>8 A. Management. I cannot recall a</p> <p>9 specific name.</p> <p>10 Q. Okay. But it is your understanding</p> <p>11 that the loans were made to Mr. Dondero in</p> <p>12 order to enable him to pay the taxes due on his</p> <p>13 earnings. Do I have that right?</p> <p>14 A. That's correct.</p> <p>15 Q. And who decided the amount of the</p> <p>16 loans, to the best of your knowledge?</p> <p>17 MR. AIGEN: Objection, form.</p> <p>18 A. It is an agreement between</p> <p>19 management and Mr. – management.</p> <p>20 Q. Do you have anybody – do you have</p> <p>21 any knowledge as to who on behalf of Highland</p> <p>22 made the agreement with Mr. Dondero about the</p> <p>23 amount of the loans?</p> <p>24 A. I cannot recall the specific name.</p> <p>25 Q. If you look at loan number 1 there,</p>	<p style="text-align: right;">Page 67</p> <p>1 BURGER</p> <p>2 the \$14 million loan that was first made in</p> <p>3 December 2017, do I have this right that</p> <p>4 Mr. Dondero made a payment of over \$750,000</p> <p>5 that was applied to principal and interest on</p> <p>6 December 19th, 2018?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. And if we scroll down a</p> <p>9 little bit more, keep going, note number 4.</p> <p>10 Did Mr. Dondero make a \$2 million payment to</p> <p>11 Highland on December 18th, 2018, a portion of</p> <p>12 which was used to pay principal and a portion</p> <p>13 of which was used to pay interest on note</p> <p>14 number 4?</p> <p>15 A. That's correct.</p> <p>16 Q. Did anybody ever tell you that in</p> <p>17 January or February 2019 that Mr. Dondero had</p> <p>18 entered into an oral agreement with his sister</p> <p>19 acting on behalf of Highland whereby</p> <p>20 Mr. Dondero and certain of his affiliates would</p> <p>21 be relieved of the obligation to pay amounts</p> <p>22 due under the promissory notes if certain</p> <p>23 conditions subsequent were met?</p> <p>24 MR. AIGEN: Objection, form.</p> <p>25 A. No, they did not.</p>
<p style="text-align: right;">Page 68</p> <p>1 BURGER</p> <p>2 Q. Do you know whether anybody at PwC</p> <p>3 was ever informed by Mr. Dondero – withdrawn.</p> <p>4 Do you know if anybody at PwC was</p> <p>5 ever informed by anybody at Highland that in</p> <p>6 January or February 2019 Mr. Dondero entered</p> <p>7 into an oral agreement with his sister acting</p> <p>8 on behalf of Highland whereby Mr. Dondero and</p> <p>9 certain of his affiliates would be relieved of</p> <p>10 all obligations to pay all amounts otherwise</p> <p>11 due and owing under the promissory notes if</p> <p>12 certain conditions subsequent were met?</p> <p>13 MR. AIGEN: Objection, form.</p> <p>14 A. I do not.</p> <p>15 Q. Okay. Can we go – I apologize, but</p> <p>16 can we go back to tab number – the detail tab</p> <p>17 in the – in the workpapers?</p> <p>18 MR. WANDER: In Exhibit 5 or Exhibit</p> <p>19 3?</p> <p>20 Q. Exhibit 5, thank you for the</p> <p>21 clarification. Okay, so the detail tab and the</p> <p>22 workpapers for 2018 lists all of the notes</p> <p>23 receivable that were made by affiliates of</p> <p>24 Highland; correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 69</p> <p>1 BURGER</p> <p>2 Q. Are you aware of any oral or written</p> <p>3 amendment to any of the promissory notes that</p> <p>4 are described on the detail page of Exhibit 5?</p> <p>5 MR. AIGEN: Objection, form.</p> <p>6 MR. MORRIS: What – what is the</p> <p>7 objection? Hold on before you answer, what</p> <p>8 is the objection?</p> <p>9 MR. AIGEN: I think it is vague. I</p> <p>10 don't know which stuff you are talking</p> <p>11 about here. Are you asking for a legal</p> <p>12 conclusion, and there is no foundation.</p> <p>13 Q. Yeah, okay. Certainly not asking</p> <p>14 for a legal conclusion and I will – let me ask</p> <p>15 the question again, sir.</p> <p>16 This page lists the amounts that</p> <p>17 each of the affiliates owes to Highland under</p> <p>18 various promissory notes; correct?</p> <p>19 A. Correct.</p> <p>20 Q. Are you aware of any oral or written</p> <p>21 amendment to any of those promissory notes?</p> <p>22 A. No, up to June 3rd, 2019.</p> <p>23 Q. And do you know whether anyone at</p> <p>24 PwC was aware of any oral or written amendment</p> <p>25 to any of the promissory notes as of June 3rd,</p>

<p>Page 70</p> <p>1 BURGER</p> <p>2 2019?</p> <p>3 MR. AIGEN: Objection, form.</p> <p>4 A. No, I'm not.</p> <p>5 Q. Were you ever informed of any</p> <p>6 amendment, written or oral, to any promissory</p> <p>7 note at any time?</p> <p>8 A. I was not.</p> <p>9 Q. Did anyone ever tell you that any of</p> <p>10 the notes in – referred to in the detail tab</p> <p>11 of Exhibit 5 might be forgiven under certain</p> <p>12 circumstances?</p> <p>13 A. No.</p> <p>14 Q. Do you know whether anybody at PwC</p> <p>15 was ever informed by anybody at Highland that</p> <p>16 any of the notes in the detail tab in Exhibit 5</p> <p>17 might be forgiven?</p> <p>18 MR. AIGEN: Objection, form.</p> <p>19 A. I do not.</p> <p>20 Q. Under your understanding of the GAAP</p> <p>21 rules, did Mr. Dondero and Mr. Waterhouse have</p> <p>22 a continuing obligation to inform PwC of any</p> <p>23 circumstances that would call into question the</p> <p>24 collectability of any of the notes due from</p> <p>25 affiliates?</p>	<p>Page 71</p> <p>1 BURGER</p> <p>2 MR. AIGEN: Objection, form.</p> <p>3 A. Yes, they had the responsibility.</p> <p>4 Q. To the best of your knowledge, did</p> <p>5 Mr. Dondero ever inform anybody at PwC prior to</p> <p>6 June 3rd, 2019 that any of the notes might not</p> <p>7 be collectable?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. He did not.</p> <p>10 Q. To the best of your knowledge, did</p> <p>11 Mr. Dondero ever inform anybody at PwC prior to</p> <p>12 June 3rd, 2019 that any of the notes might be</p> <p>13 forgiven under certain circumstances?</p> <p>14 MR. AIGEN: Objection, form.</p> <p>15 A. He did not.</p> <p>16 Q. To the best of your knowledge, did</p> <p>17 Mr. Dondero ever inform anyone at PwC prior to</p> <p>18 June 3rd, 2019 that any of the notes were</p> <p>19 amended?</p> <p>20 MR. AIGEN: Objection, form.</p> <p>21 A. He did not.</p> <p>22 Q. To the best of your knowledge, did</p> <p>23 Mr. Dondero ever inform anyone at PwC prior to</p> <p>24 June 3rd, 2019 that the obligations under any</p> <p>25 of the notes would be extinguished based on the</p>
<p>Page 72</p> <p>1 BURGER</p> <p>2 fulfillment of certain conditions subsequent?</p> <p>3 MR. AIGEN: Objection, form.</p> <p>4 A. Again, he did not.</p> <p>5 Q. I'm going to ask the same questions</p> <p>6 now with respect to Mr. Waterhouse.</p> <p>7 To the best of your knowledge, did</p> <p>8 Mr. Waterhouse ever inform anyone at PwC prior</p> <p>9 to June 3rd, 2019 that any of the notes might</p> <p>10 not be collectable?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. He did not.</p> <p>13 Q. To the best of your knowledge, did</p> <p>14 Mr. Waterhouse ever inform anyone at PwC prior</p> <p>15 to June 3rd, 2019 that any of the notes might</p> <p>16 be forgiven under certain circumstances?</p> <p>17 A. No, he did not.</p> <p>18 Q. To the best of your knowledge, did</p> <p>19 Mr. Waterhouse ever inform anyone at PwC prior</p> <p>20 to June 3rd, 2019 that any of the notes were</p> <p>21 amended?</p> <p>22 A. He did not.</p> <p>23 Q. To the best of your knowledge, did</p> <p>24 Mr. Waterhouse ever inform anybody at PwC prior</p> <p>25 to June 3rd, 2019 that the obligations under</p>	<p>Page 73</p> <p>1 BURGER</p> <p>2 any of the notes would be extinguished upon the</p> <p>3 fulfillment of certain conditions subsequent?</p> <p>4 MR. AIGEN: Objection, form.</p> <p>5 A. He did not.</p> <p>6 Q. Now, just going to finish up the</p> <p>7 last set of questions to make it broader for</p> <p>8 anybody at Highland.</p> <p>9 To the best of your knowledge, did</p> <p>10 anyone from Highland ever inform anyone at PwC</p> <p>11 prior to June 3rd, 2019 that any of the notes</p> <p>12 might not be collectable?</p> <p>13 MR. AIGEN: Objection, form.</p> <p>14 A. Not to my knowledge.</p> <p>15 Q. To the best of your knowledge, did</p> <p>16 anyone from Highland ever inform anyone at PwC</p> <p>17 prior to June 3rd, 2019 that any of the notes</p> <p>18 might be forgiven under certain circumstances?</p> <p>19 A. Not to my knowledge.</p> <p>20 Q. To the best of your knowledge, did</p> <p>21 anyone from Highland ever inform anyone at PwC</p> <p>22 prior to June 3rd, 2019 that any of the notes</p> <p>23 were amended?</p> <p>24 MR. AIGEN: Objection, form.</p> <p>25 A. Not to my knowledge.</p>

<p style="text-align: right;">Page 74</p> <p>1 BURGER</p> <p>2 Q. To the best of your knowledge, did</p> <p>3 anyone from Highland ever inform anyone at PwC</p> <p>4 prior to June 3rd, 2019 that the obligations</p> <p>5 under any of the notes would be extinguished</p> <p>6 upon the fulfillment of certain conditions</p> <p>7 subsequent?</p> <p>8 A. Not to my knowledge.</p> <p>9 Q. If PwC had learned before June 3rd,</p> <p>10 2019 that any of the notes might not be</p> <p>11 collectable, would PwC have required that</p> <p>12 information to be disclosed?</p> <p>13 MR. AIGEN: Objection, form.</p> <p>14 A. Disclosed or potentially based on</p> <p>15 materiality financials adjusted.</p> <p>16 Q. I'm going to ask that question</p> <p>17 again.</p> <p>18 A. Okay.</p> <p>19 Q. If PwC had learned before June 3rd,</p> <p>20 2019 that any of the notes that had an</p> <p>21 outstanding principal amount of at least \$1.7</p> <p>22 million might not be collectable, would PwC</p> <p>23 have required that to be disclosed?</p> <p>24 A. Correct.</p> <p>25 MR. AIGEN: Objection, form.</p>	<p style="text-align: right;">Page 75</p> <p>1 BURGER</p> <p>2 Q. And why is that?</p> <p>3 A. If you have a material – if you</p> <p>4 have material adverse effects of the balance</p> <p>5 sheet which gives a material adjustment to the</p> <p>6 financial statements, depending on the type of</p> <p>7 event you require either disclosure or actual</p> <p>8 adjustment to the balance sheet.</p> <p>9 Q. If PwC had learned before June 3rd,</p> <p>10 2019 that any of the notes that had a</p> <p>11 outstanding principal amount due of at least</p> <p>12 \$1.7 million might be forgiven, would PwC have</p> <p>13 required that to be disclosed?</p> <p>14 A. Yes.</p> <p>15 MR. AIGEN: Objection, form.</p> <p>16 Q. Is that for the same reasons that</p> <p>17 you just articulated with respect to the lack</p> <p>18 of collectability?</p> <p>19 A. Correct.</p> <p>20 Q. Just two more questions. If PwC</p> <p>21 learned before June 3rd, 2019 that any of the</p> <p>22 notes that had an outstanding principal amount</p> <p>23 of \$1.7 million or more, if those notes had</p> <p>24 been amended, would PwC have required that to</p> <p>25 be disclosed?</p>
<p style="text-align: right;">Page 76</p> <p>1 BURGER</p> <p>2 MR. AIGEN: Objection, form.</p> <p>3 A. We would have.</p> <p>4 Q. And finally, if PwC learned before</p> <p>5 June 3rd, 2019 that any of the notes that had a</p> <p>6 then outstanding principal amount due of at</p> <p>7 least \$1.7 million would be extinguished based</p> <p>8 on the fulfillment of certain conditions</p> <p>9 subsequent, would PwC have required that to be</p> <p>10 disclosed?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. We would have.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: I have no further</p> <p>15 questions. Thank you very much, sir.</p> <p>16 EXAMINATION</p> <p>17 BY MR. AIGEN:</p> <p>18 Q. All right. I guess my first</p> <p>19 question is, how much of a hard stop time is</p> <p>20 11:45? I don't mean that for you that can be</p> <p>21 for counsel.</p> <p>22 A. I can go to noon.</p> <p>23 Q. I will try – I do not think I'm</p> <p>24 going to be able to be done by then. I guess</p> <p>25 at that point we can stop and it is possible</p>	<p style="text-align: right;">Page 77</p> <p>1 BURGER</p> <p>2 John and I can work out stuff on the side. But</p> <p>3 just for the record, I understand this isn't</p> <p>4 your problem I just want to note that we were</p> <p>5 never told there would be this sort of time</p> <p>6 limit today. Again, not your problem and I</p> <p>7 just want to reserve all rights if we can't</p> <p>8 finish today we may have to come back another</p> <p>9 time. Hopefully not, I will do my best to ask</p> <p>10 questions.</p> <p>11 Let's start with some of the</p> <p>12 questions you were asked at the end about –</p> <p>13 Mr. Morris asked you if you had learned certain</p> <p>14 things. And he asked you several questions</p> <p>15 about it, that PwC would have required that</p> <p>16 information to be disclosed. Do you remember</p> <p>17 that?</p> <p>18 A. Okay.</p> <p>19 Q. Yes, you remember that?</p> <p>20 A. Yes, I do.</p> <p>21 Q. When you say or he said required to</p> <p>22 be disclosed, what are you talking about,</p> <p>23 disclosed where and to whom?</p> <p>24 A. Typically that would be disclosed in</p> <p>25 your subsequent events footnotes, but you can</p>

<p>Page 78</p> <p>1 BURGER</p> <p>2 also disclose it in note 9 or 8 in this</p> <p>3 instance, the relevant note.</p> <p>4 Q. And those questions were, for</p> <p>5 instance, one of the questions were do you</p> <p>6 remember being asked if PwC had learned that</p> <p>7 the notes might be forgiven PwC would have</p> <p>8 required that to have been disclosed. Do you</p> <p>9 remember answering that question?</p> <p>10 A. Yeah, I do.</p> <p>11 Q. And I want to focus on this. I know</p> <p>12 these are Mr. Morris' questions, so it may not</p> <p>13 have been your language, but you were asked if</p> <p>14 it might be forgiven.</p> <p>15 What does that mean to you? Are we</p> <p>16 talking about is there a difference for you if</p> <p>17 there was a 1 percent chance that something</p> <p>18 would be forgiven or a 90 percent change of it</p> <p>19 being forgiven?</p> <p>20 A. If we learned about something, let's</p> <p>21 say, we learned might be forgiven, that would</p> <p>22 have resulted in additional audit work. The</p> <p>23 question I understood to be and the answer I</p> <p>24 gave was if something happened where there was</p> <p>25 an event that actually occurred before or on</p>	<p>Page 79</p> <p>1 BURGER</p> <p>2 June 3rd, we would have required disclosure.</p> <p>3 Q. Got it. So is it fair to say that</p> <p>4 in response to all of Mr. Morris' questions</p> <p>5 about what would have been required to be</p> <p>6 disclosed, in your mind he was referring to</p> <p>7 those events or items having actually occurred</p> <p>8 and the notes being actually forgiven at that</p> <p>9 point in time; is that correct?</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 Q. I didn't hear your answer.</p> <p>13 A. Correct.</p> <p>14 Q. So you haven't provided any</p> <p>15 testimony today about what PwC might have</p> <p>16 required to be disclosed or disclosed if</p> <p>17 certain events took place in the future; is</p> <p>18 that fair to say?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. That is fair to say, but any events</p> <p>22 that we learn of may have – will be assessed</p> <p>23 for what the impact on the valuation of the</p> <p>24 loan is.</p> <p>25 Q. And is it fair to say, then, that</p>
<p>Page 80</p> <p>1 BURGER</p> <p>2 PwC would have to analyze and assess a</p> <p>3 condition to determine whether it is something</p> <p>4 this needs to be disclosed?</p> <p>5 A. Yeah, we will have to analyze it.</p> <p>6 Q. And how would PwC go about analyzing</p> <p>7 a potential event that might forgive or</p> <p>8 discharge the notes?</p> <p>9 A. It depends on what the event is. It</p> <p>10 comes down to a function of materiality and</p> <p>11 probability and understanding the potential</p> <p>12 event through discussions with management.</p> <p>13 Again, it depends on the event.</p> <p>14 Q. Okay. And without knowing the</p> <p>15 specific event, would you agree that you can't</p> <p>16 testify today on whether that would need to be</p> <p>17 disclosed in the financials?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of the question.</p> <p>20 A. Again, the purpose of subsequent</p> <p>21 event disclosure is to disclose to the reader</p> <p>22 of the financial statements any events that</p> <p>23 actually occurred. And if we are aware of</p> <p>24 something that – that did not occur but that</p> <p>25 may have a material adverse effect on the</p>	<p>Page 81</p> <p>1 BURGER</p> <p>2 financial statements, that is something that we</p> <p>3 would consider for disclosure.</p> <p>4 Q. And when you say you'd consider it,</p> <p>5 is it fair that you would analyze the</p> <p>6 probability that the event would occur?</p> <p>7 MR. MORRIS: Objection to the form</p> <p>8 of the question.</p> <p>9 A. Correct.</p> <p>10 Q. And would you also –</p> <p>11 A. Correct.</p> <p>12 Q. Would you also look at the potential</p> <p>13 materiality of that event?</p> <p>14 A. Yes.</p> <p>15 Q. And with respect to the promissory</p> <p>16 notes at issue in this litigation, is it fair</p> <p>17 to say that no one at PwC made any sort of</p> <p>18 analysis about whether those notes would be</p> <p>19 potentially discharged due to events that might</p> <p>20 occur in the future?</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question.</p> <p>23 A. That is not part of our professional</p> <p>24 work responsibility to consider potential</p> <p>25 events that might occur.</p>

<p style="text-align: right;">Page 82</p> <p>1 BURGER</p> <p>2 Q. And the audits that we were talking</p> <p>3 about were in 2017 and 2018; is that correct?</p> <p>4 A. Yeah, conducted in '18 for '17 and</p> <p>5 conducted in '19 for '18.</p> <p>6 Q. Okay. And I just want to ask some</p> <p>7 general questions about the audits that were</p> <p>8 done. And to speed things up, I'm going to ask</p> <p>9 you the questions combining those two years.</p> <p>10 If you need to break it down per year we can do</p> <p>11 that, too, but these are pretty general</p> <p>12 questions.</p> <p>13 Can you tell me approximately how</p> <p>14 many people worked on the audits of Highland at</p> <p>15 PwC in 2017 and 2018?</p> <p>16 A. Again, earlier I said six or seven.</p> <p>17 Q. And out of those six or seven, how</p> <p>18 many people had communications with anyone at</p> <p>19 Highland?</p> <p>20 A. I would argue all of them, all of</p> <p>21 us.</p> <p>22 Q. Okay. And who at Highland did these</p> <p>23 six or seven people have communications with</p> <p>24 with respect to the work on the audits?</p> <p>25 A. It depends. It depends on the</p>	<p style="text-align: right;">Page 83</p> <p>1 BURGER</p> <p>2 nature of the question. So again, Kristin</p> <p>3 Hendrix, and actually earlier there is another</p> <p>4 name Drew Wilson would have been a person that</p> <p>5 we dealt with on a day-to-day basis. Above</p> <p>6 them would be Dave Klos and above them would be</p> <p>7 Frank Waterhouse, the CFO.</p> <p>8 So again, if it is a routine matter,</p> <p>9 our more junior people probably dealt with</p> <p>10 Kristin and Drew. And if it is not a routine</p> <p>11 matter and on periodic status meetings, my</p> <p>12 communication would have probably been more</p> <p>13 with Dave Klos and my managers.</p> <p>14 Q. I apologize. Other than those four,</p> <p>15 Ms. Hendrix, Mr. Wilson, Mr. Klos and</p> <p>16 Mr. Waterhouse, is there anyone else at</p> <p>17 Highland that PwC communicated with as part of</p> <p>18 the audit that you are aware of?</p> <p>19 A. Not that I'm aware of. I mean,</p> <p>20 there is a chance that they might have had</p> <p>21 somebody else involved, but not that I can</p> <p>22 recall.</p> <p>23 Q. Have you ever had any conversations</p> <p>24 with Mr. Dondero?</p> <p>25 A. Not specifically relating to any –</p>
<p style="text-align: right;">Page 84</p> <p>1 BURGER</p> <p>2 related to the audit directly.</p> <p>3 Q. Do you know whether any of the other</p> <p>4 people at PwC that worked on the audit had any</p> <p>5 conversations with Mr. Dondero?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. At the end of Mr. Morris' questions</p> <p>8 if you remember you were asked several</p> <p>9 questions about whether you or anyone at PwC</p> <p>10 had different conversations with anyone at</p> <p>11 Highland about the notes and them being</p> <p>12 potentially forgivable or discharged or</p> <p>13 amended. Do you remember testifying to that?</p> <p>14 A. Yeah, I do.</p> <p>15 Q. You were asked about conversations</p> <p>16 you had and you said you had no such</p> <p>17 conversations; is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. You also testified that you are not</p> <p>20 aware of any conversations of anyone else that</p> <p>21 PwC had with anyone at Highland about this</p> <p>22 subject; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Did you – I know you said you're</p> <p>25 not aware and I guess my question is how do you</p>	<p style="text-align: right;">Page 85</p> <p>1 BURGER</p> <p>2 know that? Did you have any conversations with</p> <p>3 anyone else at PwC about whether they had any</p> <p>4 such conversations with anyone at Highland</p> <p>5 about potential dischargeability of the notes?</p> <p>6 A. I would have had discussions with my</p> <p>7 manager directly through a review of the</p> <p>8 engagement as we go through all of this. And</p> <p>9 in this instance depending on the person</p> <p>10 involved whether it was Hilda or Madeline, we</p> <p>11 analyze, review as we try to get towards</p> <p>12 sign-off.</p> <p>13 And on this line item, we would have</p> <p>14 gone through the work done on this note, you</p> <p>15 know, and the discussion of whether there is</p> <p>16 any adverse event that anybody is aware of.</p> <p>17 Q. These are all the conversations you</p> <p>18 are aware of during the audit not in the last</p> <p>19 couple of years; is that correct?</p> <p>20 A. Yeah, during the audit.</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question.</p> <p>23 Q. Are you aware of any specific</p> <p>24 discussions that you had with anyone else at</p> <p>25 PwC about whether they had any communications</p>

<p>Page 86</p> <p>1 BURGER</p> <p>2 with anyone at Highland about whether the notes</p> <p>3 were potentially dischargeable or amended?</p> <p>4 MR. MORRIS: Objection.</p> <p>5 A. No, I'm not aware.</p> <p>6 Q. As part of the audit process, is one</p> <p>7 of the things that PwC looks at who would be</p> <p>8 reviewing or relying on the financial</p> <p>9 statements that you are auditing?</p> <p>10 A. Yes, we consider that.</p> <p>11 Q. And why is that considered?</p> <p>12 A. It is important – well, A, the –</p> <p>13 the format of our report and obviously just</p> <p>14 governed by who relies on it. So in other</p> <p>15 words, if you have a public client with the</p> <p>16 PCAOB standards where everybody in the public</p> <p>17 relied on there are additional procedures and</p> <p>18 additional scope than we have to perform. In a</p> <p>19 certain sense you can deal with two sets of</p> <p>20 rules. And the other part of that is</p> <p>21 considered in who we address our opinion to.</p> <p>22 Q. And in the case of the Highland</p> <p>23 audits, did PwC make an effort to determine who</p> <p>24 would be reviewing and relying on the audits,</p> <p>25 audited financial statements?</p>	<p>Page 87</p> <p>1 BURGER</p> <p>2 A. Yes. As this is a partnership, it</p> <p>3 is generally available to the general partner</p> <p>4 and the partners. And there wasn't any</p> <p>5 specific need that we were aware of with</p> <p>6 third-party lenders or banks or anything that</p> <p>7 we are relying on financials.</p> <p>8 Q. Is who is going to end up reviewing</p> <p>9 and relying on a financial statement relevant</p> <p>10 to what PwC considers to be material and thus</p> <p>11 need to be disclosed?</p> <p>12 MR. MORRIS: Objection to the form</p> <p>13 of the question, asked and answered.</p> <p>14 A. No, sorry.</p> <p>15 Q. Then what is the relevance – sorry.</p> <p>16 If it is – if who is going to</p> <p>17 review a financial statement is not relevant to</p> <p>18 what is going to be disclosed, why is it</p> <p>19 relevant to the work that PwC is doing?</p> <p>20 A. We perform audits either in terms of</p> <p>21 GAAS as promulgated by AICPA or PCAOB, and</p> <p>22 there are differences in those standards.</p> <p>23 And a correction to your previous</p> <p>24 question, on materiality the basis for forming</p> <p>25 a point of view on what is material is not</p>
<p>Page 88</p> <p>1 BURGER</p> <p>2 different, but there are certain nuances in our</p> <p>3 obligation of neutrality as to whether I'm in a</p> <p>4 PCAOB engagement or a AICPA engagement.</p> <p>5 Q. What do you mean by that?</p> <p>6 A. So when we decide – you get to an</p> <p>7 overall materiality. So if you for example,</p> <p>8 are in a fund engagement you can use different</p> <p>9 metrics as to whether you are in, let's say, a</p> <p>10 hedge fund or a mutual fund, which is driven by</p> <p>11 the users of the financials.</p> <p>12 MR. WANDER: It is a difference</p> <p>13 between public and private, Michael.</p> <p>14 Q. And this would be a private</p> <p>15 transaction we're calling it; is that correct?</p> <p>16 A. Yes, governed – sorry, not</p> <p>17 governed, performed. Performed under the</p> <p>18 standards of the AICPA and not the PCAOB.</p> <p>19 Q. And would those standards make a</p> <p>20 difference on what is considered material as</p> <p>21 part of PwC's work?</p> <p>22 A. Depending on the industry, it may.</p> <p>23 Q. And would those differences</p> <p>24 potentially make a difference on what needed to</p> <p>25 be disclosed in the financial statements?</p>	<p>Page 89</p> <p>1 BURGER</p> <p>2 A. Yeah. The standards from a PCAOB</p> <p>3 the asset and disclosure requirements under the</p> <p>4 PCAOB rules, which would not be there under</p> <p>5 AICPA.</p> <p>6 Q. Changing topics a little bit here.</p> <p>7 We talked about related-party transactions a</p> <p>8 little earlier. Do you remember?</p> <p>9 A. Sure, I do.</p> <p>10 Q. Not we, you and Mr. Morris. Can you</p> <p>11 just generally at a high level explain what a</p> <p>12 related-party transaction is?</p> <p>13 A. So related-party I cannot – I</p> <p>14 cannot quote the verbatim GAAP or GAAS</p> <p>15 definition right now, but in effect the</p> <p>16 related-party is any party that up or down the</p> <p>17 stream can have material influence or control</p> <p>18 of the entity. So it would be key management,</p> <p>19 anybody in an ownership structure upstream</p> <p>20 which has significant interest or control as</p> <p>21 well as even – it can be in certain</p> <p>22 circumstances, certain service providers.</p> <p>23 Q. Let's concentrate on notes for a</p> <p>24 second. There can be –</p> <p>25 A. Okay.</p>

<p style="text-align: right;">Page 90</p> <p>1 BURGER</p> <p>2 Q. – related-party notes and then what</p> <p>3 would you call them non-related-party notes if</p> <p>4 they're not related-party notes? Is there a</p> <p>5 term for that?</p> <p>6 MR. MORRIS: Objection to form of</p> <p>7 the question.</p> <p>8 A. Third party, unaffiliated.</p> <p>9 Q. When analyzing the collectability of</p> <p>10 notes, is there any differences in what PwC was</p> <p>11 doing looking at affiliated – non-affiliated</p> <p>12 transaction notes versus related-party notes?</p> <p>13 MR. MORRIS: Objection to the form</p> <p>14 of the question.</p> <p>15 A. Not really.</p> <p>16 Q. You say "not really," that can –</p> <p>17 A. Yeah, not – no, there isn't,</p> <p>18 because at the end of the day whether a note is</p> <p>19 collectable or not is something that you have</p> <p>20 to get evidence of, and the existence of the</p> <p>21 note is something you have to get evidence of.</p> <p>22 Q. I think I can finish up with a</p> <p>23 couple more questions here. I just want to</p> <p>24 sort of go back to what we talked about in the</p> <p>25 beginning. PwC did not do any sort of analysis</p>	<p style="text-align: right;">Page 91</p> <p>1 BURGER</p> <p>2 as to whether the notes in question would be</p> <p>3 potentially forgiven or discharged; is that</p> <p>4 correct?</p> <p>5 MR. MORRIS: Objection to the form</p> <p>6 of the question.</p> <p>7 MR. AIGEN: What is your basis for</p> <p>8 the objection?</p> <p>9 MR. MORRIS: It is not their</p> <p>10 responsibility to do that. There is no</p> <p>11 foundation.</p> <p>12 Q. That is fine, you can answer the</p> <p>13 question.</p> <p>14 A. No, we did not as we did not have</p> <p>15 to.</p> <p>16 Q. If PwC had learned that there was</p> <p>17 some condition down the road that could</p> <p>18 potentially discharge or forgive the notes,</p> <p>19 would PwC have had to do some sort of analysis</p> <p>20 to determine if that condition would need to be</p> <p>21 disclosed?</p> <p>22 A. Yes, if you become aware of any</p> <p>23 adverse event which may impact the valuation of</p> <p>24 any asset you have to consider that.</p> <p>25 Q. And in order to consider that, you</p>
<p style="text-align: right;">Page 92</p> <p>1 BURGER</p> <p>2 would look at the probability that that event</p> <p>3 would occur; is that correct?</p> <p>4 A. Correct, probability and potential</p> <p>5 impact.</p> <p>6 Q. And materiality?</p> <p>7 A. Materiality.</p> <p>8 Q. And that is nothing that you or</p> <p>9 anyone at PwC did with respect to any potential</p> <p>10 conditions that might forgive these notes; is</p> <p>11 that correct?</p> <p>12 A. Yeah, we did not. Yeah, we did not.</p> <p>13 MR. AIGEN: That is all the</p> <p>14 questions I have.</p> <p>15 FURTHER EXAMINATION.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. I just have a few more, sir, few</p> <p>18 follow-ups.</p> <p>19 PwC made no assessment as to whether</p> <p>20 or not any of the notes might not be forgiven</p> <p>21 because they were never given any information</p> <p>22 that indicated that that was even possible;</p> <p>23 correct?</p> <p>24 MR. AIGEN: Objection, form.</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 93</p> <p>1 BURGER</p> <p>2 Q. PwC was never given any information</p> <p>3 about the possibility that any of the</p> <p>4 affiliated promissory notes might be forgiven;</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. PwC was never informed that</p> <p>8 Mr. Dondero had entered into an agreement that</p> <p>9 could impact the collectability of any of the</p> <p>10 promissory notes; correct?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. Correct.</p> <p>13 MR. MORRIS: I have no further</p> <p>14 questions.</p> <p>15 MR. AIGEN: I don't have anything.</p> <p>16 MR. MORRIS: Mr. Burger, I greatly</p> <p>17 appreciate your time and your patience.</p> <p>18 Thank you very much, John, same to</p> <p>19 you. Thank you for the accommodations and</p> <p>20 I hope –</p> <p>21 MR. WANDER: Certainly, thank you.</p> <p>22 (Deposition adjourned at 11:41 a.m.)</p> <p>23</p> <p>24</p> <p>25</p>

Page 94

1 BURGER

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3 PEET BURGER

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5 Subscribed and sworn to before me

6 this day of 2021.

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Page 96

1 ERRATA SHEET

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg.	No.	Now Reads	Should Read	Reason
6	___	___	___	___
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21 _____
Signature of Deponent

22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS ___ DAY OF ___, 2021.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES:_____

Page 95

1 BURGER

2 C E R T I F I C A T E

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4 I, SUSAN S. KLINGER, a certified

5 shorthand reporter within and for the State

6 of Texas, do hereby certify:

7 That PEET BURGER, the witness whose

8 deposition is hereinbefore set forth, was

9 duly sworn by me and that such deposition

10 is a true record of the testimony given by

11 such witness.

12 I further certify that I am not

13 related to any of the parties to this

14 action by blood or marriage; and that I am

15 in no way interested in the outcome of this

16 matter.

17 IN WITNESS WHEREOF, I have hereunto

18 set my hand this 30th of July, 2021.

19

20 _____

21 Susan S. Klinger, RMR-CRR, CSR

22 Texas CSR# 6531

23

24

25

Index: \$1..amount

\$	20 6:20	34 26:15 27:10	16 59:12	affiliated 23:12,16, 19 24:7,23 25:3 90:11 93:4
\$1 63:25	2000 44:20 56:11	35D 27:13,19	absolute 59:6	affiliates 31:17,23,24 32:2,10,20 33:12,18, 23 35:9,20 36:3,20 39:8 41:8 43:15 51:5, 14 52:10,17 53:3,17, 23 55:23 65:20 67:20 68:9,23 69:17 70:25
\$1.7 74:21 75:12,23 76:7	2013 7:2,3,5	36 28:14,18,22	absolutely 10:16	African 6:15
\$11.7 40:14	2014 5:21,24 6:9	38 54:9,10	accept 49:2	agree 80:15
\$116 61:4	2015 38:3	3rd 17:23 19:15 21:14 24:20,24 48:5 54:3, 22 69:22,25 71:6,12, 18,24 72:9,15,20,25 73:11,17,22 74:4,9, 19 75:9,21 76:5 79:2	acceptance 49:18	agreement 60:11 66:18,22 67:18 68:7 93:8
\$14 67:2	2017 30:3,18,23 31:3, 9 33:22 36:15,24 37:6 39:18 40:19 41:2,7,14,16,20 43:7 44:21 56:14 63:10 67:3 82:3,15	4	Accepted 8:22,24 9:11,16,18 15:23 16:5 22:2	agreements 26:21 61:21
\$150,000 63:20	2018 7:6 20:15 21:9 40:14 46:22,25 47:13,20,24 51:12 52:22 53:10,20 55:8, 21 56:10,22 59:18 60:17 63:18,20 64:2 67:6,11 68:22 82:3, 15	4 47:7,8,9 67:9,14	accommodations 93:19	AICPA 9:3 87:21 88:4,18 89:5
\$2 67:10	2019 17:23 19:15 21:14 24:18,24 25:4 48:5 54:3,22 67:17 68:6 69:22 70:2 71:6, 12,18,24 72:9,15,20, 25 73:11,17,22 74:4, 10,20 75:10,21 76:5	41 39:22	accompanying 15:6,17 34:7	AIGEN 14:19 15:25 16:16 18:3,8 23:8 25:24 26:12 32:22 33:14 35:16,21 36:4 37:9 39:11 45:4 46:12 47:3,9 53:11 54:7 55:14,17 57:9 60:3,21 61:22 64:16, 22 65:3 66:2,17 67:24 68:13 69:5,9 70:3,18 71:2,8,14,20 72:3,11 73:4,13,24 74:13,25 75:15 76:2, 11,17 91:7 92:13,24 93:11,15
\$200,000 63:19	21st 38:3	413 23:24	accordance 15:23 16:8,9	alleged 28:6
\$750,000 67:4	25th 63:18	416 25:7	account 61:12	allocated 64:2,3,4
1	26 51:17	417 28:13	accountant 13:7,8	ambiguous 8:13
1 17:22,25 66:25 78:17	26th 63:20	419 19:3 29:6	accounting 8:19 9:19 16:5,6	amended 71:19 72:21 73:23 75:24 84:13 86:3
10 33:24	28 34:17 52:6,7	5	accounts 44:2	amendment 69:3, 21,24 70:6
11 24:4,6,23	29 52:8	5 55:9,10,17 68:18,20 69:4 70:11,16	accrued 38:21	amount 31:21 38:20 40:14 44:15 45:15 61:5,9,13 62:4,12,21, 22 63:18,20 64:14 66:15,23 74:21 75:11,22 76:6
116 61:2	2nd 49:3	50 21:2,13 24:16	accuracy 21:18 61:19	
117 61:2	3	8	accurate 41:9 50:5	
11:41 93:22	3 41:4 68:19	8 51:18 52:15,19 54:6 78:2	acting 67:19 68:7	
11:45 76:20	30 35:3,6,7 39:20	8th 64:2	actual 64:20 75:7	
13 63:5	30th 24:18 25:4	9	add 46:13	
13.9 63:7	31 39:20 63:9	9 34:19 35:7,15,19 36:13 39:3,6 52:8 78:2	additional 51:9 60:14 78:22 86:17,18	
15 51:14 54:10,18,22 55:6	31st 20:15 21:9 36:15,24 40:19 41:20 46:25 47:12,20 53:10	90 78:18	address 86:21	
16 39:25	32 25:9,10,21 26:10	A	adds 63:7	
17 82:4		a.m. 93:22	adequate 58:22	
173 62:11		AB 63:15	adjoined 93:22	
18 20:25 82:4,5		ability 44:16,17,23 57:7,12,25 58:8,13,	adjusted 74:15	
18th 67:11			adjustment 75:5,8	
19 82:5			adjustments 25:18	
1997 6:14,17			adverse 60:12 75:4 80:25 85:16 91:23	
19th 67:6			affiliate 24:11 36:14, 23 52:21 53:9	
1st 5:21,24 49:3			affiliate's 59:2	
2				
2 30:6 31:11 51:2				

amounts 31:16,23 32:2,9,12,19 33:11, 18,23 34:15 35:8 36:3,10,13,17,18,20, 23 41:8 42:19,23 43:14 44:19 51:5,13 52:9,20,24 53:2,9,15, 16,22 55:22 58:23 61:18 62:19 64:13 67:21 68:10 69:16 analysis 44:10,13 46:7,10 57:3,12,13 59:15 81:18 90:25 91:19 analyze 58:15 80:2,5 81:5 85:11 analyzing 57:6 80:6 90:9 answering 78:9 answers 7:22 apologize 7:18 15:3 41:25 47:6,16 68:15 83:14 applicable 50:18 applied 67:5 apply 24:6 approach 10:8 approve 50:23 approximate 38:24 approximated 64:14 approximately 39:8 61:2,4 63:5,7 82:13 approximates 37:15 53:23 April 7:3 11:2,3,17 argue 82:20 arising 24:13 arm's 65:8,11 articulated 75:17 ascertain 58:7 Asia 21:6 aspects 57:5 assert 26:7 28:20	asserting 26:18 assertion 38:8 assess 58:20 60:14 80:2 assessed 79:22 assessment 26:17 57:19 58:25 62:4 92:19 asset 32:5,7,8,10,14, 15,16,17 38:15 89:3 91:24 assets 31:13,16 32:3,21 33:12,18,25 38:13 51:15 57:22 58:13,21 associate 42:7,8 assurance 8:18 9:9, 12,14,15 15:22 16:14 22:20 32:16 57:20 59:8 attention 34:12 audit 5:18,19,22 6:8, 16,19 7:4 8:17 9:6,8 10:8,24 12:16,18 13:14 14:22,24 16:9, 20 17:12,15,19 21:8, 21,25 22:19 26:11 27:10 29:4 30:22 39:14,17 41:7,14,17, 18 42:21 43:7 44:7, 21 47:18 49:7,10,14 50:10 54:3 55:21 56:22 59:18 60:18 78:22 83:18 84:2,4 85:18,20 86:6 audited 13:19 14:10 16:7 30:18 37:5 46:24 47:11,25 86:25 auditing 8:19,23,24 9:11,17 10:2 15:23 16:4 22:3 31:3 86:9 auditors 48:19 audits 6:3,25 13:12 14:14 20:6 23:18 29:25 82:2,7,14,24 86:23,24 87:20 aware 23:10 26:20 28:25 57:23 60:6	69:2,20,24 80:23 83:18,19 84:6,20,25 85:16,18,23 86:5 87:5 91:22 awkward 18:10 <hr/> B <hr/> back 19:11 21:7 42:8 45:14,16 49:24 61:20 62:14 68:16 77:8 90:24 background 18:25 balance 20:10,14 24:13 29:16 32:3,11, 21 33:4,12,19,22 36:9,19 40:7,18 42:20 43:22,24 44:5 51:3 53:2 61:5,10,14 62:16 75:4,8 balances 44:2 banks 87:6 base 44:25 59:20 based 21:12 39:2,5 42:23 59:9 61:25 64:10 66:6 71:25 74:14 76:7 basic 36:11 basically 9:2 25:22 38:22 basis 5:23 6:20 22:19 34:14 59:4 83:5 87:24 91:7 Bates 18:4,8 Beautiful 30:14 begin 6:23 7:22,24, 25 10:23 11:7,19,23 beginning 6:8 54:10 90:25 begins 22:9 29:8 behalf 47:11 66:21 67:19 68:8 believed 16:13 biggest 13:14 bit 37:19 39:23 63:24	67:9 89:6 bona 24:11 bottom 20:18 34:4 43:10 48:5 break 8:7 82:10 briefly 6:6 broader 73:7 Burger 5:1,3,10,12 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1, 2,9 19:1 20:1 21:1 22:1 23:1 24:1,3 25:1 26:1 27:1 28:1 29:1 30:1,7 31:1 32:1 33:1 34:1 35:1,4,25 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1,15,20 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1,16 business 43:3 56:18 <hr/> C <hr/> calculated 36:22 53:8 call 23:15 25:15 26:5 41:3 49:2 50:12 58:21 70:23 90:3 called 13:25 35:8 36:2,19 50:19 53:2 57:2,15 62:14 calling 88:15 capably 30:10 capacity 6:2 Capital 6:3,24 7:8,11 23:21 31:22 40:10	capture 40:4,5 carried 21:24 32:2, 20 carry 51:7 carrying 21:20 33:17 37:15 38:9,16,17,18, 24 53:23 case 8:22 11:21 86:22 CFO 13:4 19:22 83:7 chance 78:17 83:20 change 78:18 Changing 89:6 charge 7:5 chief 13:6 circumstance 60:2 circumstances 70:12,23 71:13 72:16 73:18 89:22 claims 24:12 clarification 15:4 16:10 24:21 68:21 classic 32:14 clean 50:13,16 59:17 clear 10:20 client 49:19 61:5,9 62:5 86:15 client's 49:13 closed 34:9 closing 63:9 coincidence 48:13 collectability 70:24 75:18 90:9 93:9 collectable 71:7 72:10 73:12 74:11,22 90:19 collective 59:20 62:20 column 57:15 61:12, 17 63:14 combination 58:3
--	---	--	---	--

combining 82:9	connection 10:2 14:14 16:19 31:8 41:7,13 44:6,21 47:24 53:20 59:17,18 60:17	88:15 91:4 92:3,4,11, 23,25 93:5,6,10,12	40:19 41:19 46:25 47:12,20 53:10 67:3, 6,11	78:16 88:12,20,24
comfort 42:22		correction 47:14 87:23	decide 88:6	differences 87:22 88:23 90:10
comment 15:16		correctly 9:7	decided 17:19 53:6 66:15	diligence 45:6 58:4, 6 59:9
committee 50:14	considered 9:3 22:12,17 23:6,20 38:9 65:7,13 86:11, 21 88:20	counsel 76:21	deciding 59:16	directly 56:7 84:2 85:7
communicated 83:17		counterparty 44:18 60:7,13	decision 33:10	discharge 80:8 91:18
communication 12:23 83:12	considers 87:10	couple 85:19 90:23	dedicated 34:22 50:15	dischargeability 85:5
communications 82:18,23 85:25	consistent 5:23 6:20	court 8:4	default 25:3 57:21 58:11	dischargeable 86:3
compile 15:8	consolidated 27:23 31:21 34:8 51:3	created 56:14	defer 25:17	discharged 81:19 84:12 91:3
compiled 15:13	constituted 33:24	creating 56:13	defined 23:6 31:24	disclose 34:25 78:2 80:21
completed 7:7 39:17	consultation 50:21	credit 44:9,12 57:2, 12	definition 22:12,16, 20,25 32:4,6,8,15 89:15	disclosed 27:22 28:9,24 74:12,14,23 75:13,25 76:10 77:16,22,23,24 78:8 79:6,16 80:4,17 87:11,18 88:25 91:21
completeness 26:17 27:4	contact 12:17,21 13:3	creditworthiness 59:2,6	depending 75:6 85:9 88:22	disclosure 29:17 40:7 54:15,24 75:7 79:2 80:21 81:3 89:3
completing 30:22	content 49:19,21	current 21:12 24:24	depends 13:13 80:9, 13 82:25	disclosures 28:6,7 29:18 50:4
completion 10:7,11, 22 21:20,25	context 18:23 38:12	<hr/> D <hr/>	deposed 7:14	discount 39:18 54:4
compliance 9:10	continuing 52:7 70:22	data 57:24 60:6,12	deposition 18:7,10 45:24 46:3 93:22	discussion 85:15
concentrate 89:23	contractual 38:19	date 20:10 21:20,24 22:5,6 24:13 29:16, 17 48:8,14,21,25 49:2 61:11 63:9	derived 20:7	discussions 80:12 85:6,24
concept 38:22	contractually 58:11	dated 48:4	describe 9:24 34:21 35:19 41:9 49:16 52:16 54:13 58:5	dispute 32:19
concerns 22:25 59:22	control 89:17,20	dates 6:11	description 54:23 61:12	document 15:10 17:22 18:12,13,15,21 19:12 30:9 33:7 34:18 37:20 41:10,23 42:17,18 43:25 48:4 49:8 56:13,16,20 59:16
conclude 44:20 58:16 59:11	conversations 83:23 84:5,10,15,17, 20 85:2,4,17	Dave 83:6,13	detailed 43:10 56:25	documentation 46:16
conclusion 69:12,14	conveyed 36:2	David 12:25	determine 80:3 86:23 91:20	documents 47:15
conclusions 62:2	copy 30:13	day 48:20 90:18	determines 49:12	dog 27:16,19
condition 80:3 91:17,20	correct 6:15,22 11:25 12:7,11 15:14 19:6,10 20:12,16,17 21:13 24:15,19,20 25:4,5,25 27:24 29:2, 10 33:4,5,8,9 34:2 35:10,15,22 36:16,21 37:18 39:12 40:2,11, 20,21,24,25 41:21 43:17 46:21 51:16 52:5,13,14,17,18 53:12,25 54:8,20,25 56:23 57:10,13,14 63:11,22 64:5 66:14 67:7,15 68:24,25 69:18,19 74:24 75:19 79:9,13 81:9,11 82:3 84:17,18,22,23 85:19	day-to-day 83:5	deviation 50:21	dollars 63:5,7
conditions 67:23 68:12 72:2 73:3 74:6 76:8 92:10		deal 35:24 44:17 45:17 86:19	detail 43:20 45:14 51:24 62:14,15,18 68:16,21 69:4 70:10, 16	Dondero 19:8,14,18,
conducted 82:4,5		deals 22:20,21	determine 80:3 86:23 91:20	
confirm 21:18 37:21 53:5,7,19 55:20,24 56:16,20		dealt 12:20 45:13 83:5,9	deviations 31:6 47:22 50:3	
confirmed 21:11 24:18		debtor 35:20 52:17 58:18	differ 37:12 38:17	
conformance 16:15		debtors 30:22	difference 61:4	
conglomerate 9:4		debtors' 39:3 62:3		
Connect 13:25		December 20:15 21:9 36:14,24 38:3		

<p>22 21:3,11 23:4,12 24:10,17 25:21 27:20 28:22 40:12,22 58:16 59:4 64:7,8,13,19 65:2,20,22 66:6,11, 22 67:4,10,17,20 68:3,6,8 70:21 71:5, 11,17,23 83:24 84:5 93:8</p> <p>Dondero's 18:7 58:13</p> <p>drafted 20:2</p> <p>drafts 14:21 15:16</p> <p>draw 34:12</p> <p>Drew 83:4,10</p> <p>driven 88:10</p> <p>due 18:24 31:17,24 32:2,9,19 33:11,18, 23 35:8,20 36:3,13, 20,23 39:9 41:8 43:14 44:15 45:6,19, 21 51:5,13 52:9,20 53:3,9,15,16,22 55:22 58:4,6 59:9 61:10 62:23 63:3 66:12 67:22 68:11 70:24 75:11 76:6 81:19</p> <p>duly 5:4</p> <p>duties 9:22</p> <p>duty 27:3 50:10</p> <hr/> <p>E</p> <hr/> <p>earlier 31:7 40:18 47:23 48:10 49:3 57:4 82:16 83:3 89:8</p> <p>earnings 64:10 66:7, 13</p> <p>easier 30:14</p> <p>easy 18:12</p> <p>effect 80:25 89:15</p> <p>effectively 48:22</p> <p>effects 75:4</p> <p>effort 86:23</p>	<p>efforts 30:22 31:3</p> <p>employed 5:11 6:6 42:3</p> <p>enable 14:10 66:12</p> <p>encourage 18:18</p> <p>end 14:2 21:19 33:22 43:15 51:10,12 52:21 77:12 84:7 87:8 90:18</p> <p>ending 19:3 20:15,25 21:9 23:24 28:13 40:19 41:19 46:25 47:12,20</p> <p>ends 37:11,22</p> <p>engaged 11:11</p> <p>engagement 7:5 9:5 10:25 15:20 50:18 85:8 88:4,8</p> <p>entered 67:18 68:6 93:8</p> <p>entities 23:12</p> <p>entitled 32:15 34:19 39:24 52:9</p> <p>entity 19:23 32:13 63:2 89:18</p> <p>equal 39:8</p> <p>error 26:5</p> <p>evaluation 62:22</p> <p>event 40:23 75:7 78:25 80:7,9,12,13, 15,21 81:6,13 85:16 91:23 92:2</p> <p>events 22:4 28:8 29:15 39:24 40:6 48:24 54:14,23 55:5 77:25 79:7,17,21 80:22 81:19,25</p> <p>evidence 58:9 59:7 90:20,21</p> <p>EXAMINATION 5:6 76:16 92:15</p> <p>exceeded 51:14</p> <p>exchange 23:13 38:15</p>	<p>Excuse 27:15</p> <p>execution 10:8,11 11:6,14,15 12:18 13:15</p> <p>exhibit 17:22,25 30:5,6 41:3,4 47:7,8 55:9,10,17 68:18,20 69:4 70:11,16</p> <p>existence 42:23 62:21 65:16 90:20</p> <p>expect 19:24 22:21</p> <p>expected 17:11</p> <p>explain 10:20 45:10 89:11</p> <p>explanations 34:15</p> <p>express 22:24</p> <p>extinguished 71:25 73:2 74:5 76:7</p> <hr/> <p>F</p> <hr/> <p>faced 64:15</p> <p>facilitate 64:10</p> <p>facilitated 12:21,22</p> <p>fact 25:17 33:6 54:22 60:10</p> <p>fair 6:21 12:2,3 17:17 27:18 28:21 35:18 37:14 38:8,10,11,13, 21,23 39:2,5,7,13,15 51:12 53:21 54:2,4 58:24 79:3,18,21,25 81:5,16</p> <p>fall 11:24</p> <p>familiar 9:21 16:22 46:23</p> <p>February 67:17 68:6</p> <p>feed 12:9</p> <p>feeds 62:13</p> <p>fide 24:11</p> <p>fieldwork 11:2,5 12:12,13</p> <p>file 41:12</p>	<p>filings 58:14,15,19, 22</p> <p>final 10:24</p> <p>finalized 14:23</p> <p>finally 76:4</p> <p>financial 7:6 9:9 10:3 13:19 14:11 15:2,5,6, 12,17,22 16:14 26:6, 22 27:23 30:3,19,23 31:3,9 34:8,25 37:6 39:3 41:18 44:4 45:16 46:23,24 47:11,19 53:20 56:22 61:15 62:17 75:6 80:22 81:2 86:8,25 87:9,17 88:25</p> <p>financials 9:17 16:8 47:25 48:22 50:3,5 74:15 80:17 87:7 88:11</p> <p>find 25:13</p> <p>fine 23:17 91:12</p> <p>finish 7:21,25 73:6 77:8 90:22</p> <p>firm 6:15</p> <p>fiscal 10:23 11:24 20:15 21:9,19 41:19 43:16 51:10 52:21</p> <p>focus 78:11</p> <p>focused 45:19</p> <p>follow 10:4 49:24 56:12</p> <p>follow-up 14:18</p> <p>follow-ups 92:18</p> <p>footnote 36:7</p> <p>footnotes 34:16 77:25</p> <p>forgivable 84:12</p> <p>forgive 80:7 91:18 92:10</p> <p>forgiven 70:11,17 71:13 72:16 73:18 75:12 78:7,14,18,19, 21 79:8 91:3 92:20 93:4</p>	<p>form 14:19 15:25 16:16,23 20:4 23:8 24:14 25:24 26:12 32:14,22 33:14 35:16,21 36:4 37:9 39:11 45:4 46:12 53:11 54:7 57:9 60:3, 21 61:23 64:16,22 65:3 66:17 67:24 68:13 69:5 70:3,18 71:2,8,14,20 72:3,11 73:4,13,24 74:13,25 75:15 76:2,11 79:10, 19 80:18 81:7,21 85:21 87:12 90:6,13 91:5 92:24 93:11</p> <p>format 86:13</p> <p>forming 87:24</p> <p>forms 32:12 59:20</p> <p>forward 7:12 21:24</p> <p>found 26:5 58:14</p> <p>foundation 69:12 91:11</p> <p>framework 49:23</p> <p>Frank 13:4 19:8 83:7</p> <p>fraud 27:4</p> <p>front 18:12,15 30:13, 19 35:5 37:21</p> <p>fulfill 50:10,12</p> <p>fulfillment 72:2 73:3 74:6 76:8</p> <p>full 60:15</p> <p>fully 30:10 60:10,19</p> <p>function 80:10</p> <p>fund 88:8,10</p> <p>future 79:17 81:20</p> <hr/> <p>G</p> <hr/> <p>GAAP 16:2,8,15 29:20,22 34:24 38:7 49:6 50:6 52:3 70:20 89:14</p> <p>GAAS 16:3,9 29:21 49:6,7 87:21 89:14</p>
--	--	---	---	---

Index: gain..make

gain 42:22	55:4 57:24 59:11,24 63:25 66:21 67:11,19 68:5,8,24 69:17 70:15 73:8,10,16,21 74:3 82:14,19,22 83:17 84:11,21 85:4 86:2,22	45:2 52:12 54:17,18 57:25 59:10 64:18 65:9,23 74:12 77:16 92:21 93:2	21:14 24:18,20,24 25:3 37:3 48:5 49:2 54:3,22 63:18 69:22, 25 71:6,12,18,24 72:9,15,20,25 73:11, 17,22 74:4,9,19 75:9, 21 76:5 79:2	legends 46:17
Garcia 42:2,3 56:2		informational 11:8	junior 83:9	lenders 87:6
Garcia's 42:14		informed 40:24 55:4 68:3,5 70:5,15 93:7	K	length 65:8,11
gave 78:24		inquiry 64:12,25 65:5,18		letter 16:23 17:13,24 19:13,19,25 20:2,14, 21 21:8 22:16 23:7 48:9,18 50:24
general 19:23,24 21:10 44:3 49:9 53:21 65:4,5 82:7,11 87:3	Highland's 30:23 31:3,8 32:3,20 33:4, 19,24 43:7 46:24 47:19 51:15 56:22 62:3	instance 56:2 78:3,5 85:9		letters 16:19 17:4,8, 18
generally 8:22,24 9:10,16,18,25 15:23 16:5 22:2 23:10 49:17 87:3 89:11	Hilda 42:2,3 85:10	insurance 9:13	key 89:18	level 25:14 89:11
give 6:10 15:21 22:22 50:12 57:20 59:7	Hold 69:7	integral 34:8	kind 57:5	liability 64:14
good 5:8 62:7	hope 93:20	intended 35:19 40:3 43:13 51:23 52:16 54:13	Klos 12:25 13:2 83:6, 13,15	limit 77:6
governed 9:3 86:14 88:16,17	I	intent 44:16 57:7	knowing 80:14	limitations 50:8
greatly 93:16	idea 36:10	interest 38:21 39:9 61:10 63:3 64:4 65:13,14 67:5,13 89:20	knowledge 21:12 29:8 53:13,18 54:21 66:16,21 71:4,10,16, 22 72:7,13,18,23 73:9,14,15,19,20,25 74:2,8	limited 19:23
ground 7:19	identified 31:16	internal 49:11	Kristin 13:5 83:2,10	link 46:15
group 6:16	impact 79:23 91:23 92:5 93:9	interrupt 47:3 61:23	L	list 31:13 43:13
guess 20:24 76:18, 24 84:25	important 7:20 28:5 86:12	involved 65:15 83:21 85:10		listed 61:11
H	inaccurate 37:7	issue 59:16 81:16	L.P. 6:4,25 7:9,11 23:22 31:22	listing 44:2
half 31:12 63:5	inaudible 38:25	issued 40:13,22 48:19,23 54:3 58:18 63:18,19	La 21:6	lists 68:22 69:16
happen 59:25	include 54:22	item 36:18 42:20 52:25 62:12 85:13	label 18:5,8	litigation 81:16
happened 78:24	included 22:16 36:17,18 40:17 52:24	items 22:12,17 23:6 79:7	lack 13:5 75:17	loan 38:20 60:15 64:9 66:25 67:2 79:24
hard 30:12 76:19	including 13:15 21:3 65:20	J	language 78:13	loaned 23:11 64:13
HCMLP 42:21	incorrect 53:17	James 19:8	layout 42:19	loans 45:18 64:7,8, 19 65:2,7,10,19,25 66:5,11,16,23
HCMSI 45:19,21 46:4,5 62:24 63:3,25	independent 48:19	January 5:21,24 6:14,17 67:17 68:6	lead 30:21 31:2	long 10:6
hear 79:12	individual 12:19 45:15 46:16,19 59:3	John 30:12,17 55:17 77:2 93:18	leads 10:24	look-through 59:4
hedge 88:10	individually 62:19	join 6:16	learn 79:22	looked 36:19 40:18 48:9 52:25 57:5
Hendrix 13:5 83:3,15	industry 88:22	joined 6:13,14	learned 74:9,19 75:9, 21 76:4 77:13 78:6, 20,21 91:16	M
high 89:11	influence 89:17	June 17:23 19:15	leave 55:12	made 20:21 21:2 29:18 33:10 44:5 59:24 64:19 65:5 66:5,11,22 67:2,4 68:23 81:17 92:19
Highland 6:3,24 7:5, 8,10,11 10:2,13 11:8 12:6,9,17 13:12 14:4, 14,22 15:13 16:19,24 22:24 23:11,20,21 31:22 32:18 33:6,10 35:13 39:6 40:9 44:6 51:25 53:14,21 54:19	inform 70:22 71:5, 11,17,23 72:8,14,19, 24 73:10,16,21 74:3		ledger 44:3	Madeline 56:3 85:10
	information 10:19 12:5,9 13:18,22 14:3, 6,9,18 23:5 35:14 36:2 40:8,9 43:18,19		left 63:9,24	make 10:18 12:5 13:21 14:13 17:10 18:4,24 64:12,25 65:18 67:10 73:7

86:23 88:19,24 maker 46:19 57:22 59:23 maker's 57:25 makers 23:19 24:12 44:21 58:7 59:11 61:11 makes 42:19 45:15 62:18 management 6:3,24 7:9,11 14:9 16:23 17:3,7,10,18,23 19:13,21 20:4,13 21:17 22:15,22 23:22 25:16,17 26:7,18 27:5 28:10,19,21 31:22 36:25 37:2,4 40:11 43:21 45:3,5 48:9,18 52:13 53:6,8 60:9,18 66:8,19 80:12 89:18 management's 49:3 manager 85:7 managers 83:13 March 63:20 mark 55:10 marked 17:22,25 30:6 41:4 43:10 44:9 46:17 47:8 55:9 marking 47:4 material 22:3,13,17, 23 23:6 25:23 26:8, 20,24 27:6,21 28:8 34:25 40:6,23 50:2,3 54:13,23 55:5 61:21 62:20 75:3,4,5 80:25 87:10,25 88:20 89:17 materiality 22:21 23:2 25:14 42:24 74:15 80:10 81:13 87:24 88:7 92:6,7 materially 57:22 math 33:21 matter 83:8,11 means 25:11 26:15 28:18 29:14,15 38:5, 6 46:2	meet 25:14 meetings 83:11 meets 32:4 met 67:23 68:12 metrics 88:9 Michael 55:12 88:13 Michael's 35:24 middle 22:7 million 40:14 63:5,7, 25 67:2,10 74:22 75:12,23 76:7 mind 30:24 62:6 79:6 mindful 7:20 minus 38:21 misstatements 25:13,16 50:2 moment 27:14 money 23:11 morning 5:8 morphed 13:23 Morris 5:7 18:6 21:6 30:17 47:6 55:11,18 69:6 76:14 77:13 79:10,19 80:18 81:7, 21 85:21 86:4 87:12 89:10 90:6,13 91:5,9 92:16 93:13,16 Morris' 78:12 79:4 84:7 move 30:3 mutual 88:10	noon 76:22 note 34:22 35:7,15, 19 36:13 39:3,6,25 51:18 52:8,15,19 54:6,9,10,18,22 55:6 60:8,9,11 63:8,13,17, 24 67:9,13 70:7 77:4 78:2,3 85:14 90:18, 21 notes 15:6,12,17 23:13,15,16,20 24:7, 11,23 25:3 31:16,23, 25 32:9,13,19 33:11, 17,23 34:7 35:8 36:3, 9,20 37:8,15,16 38:2, 6,7 39:7,10,19 40:12, 13,22 41:8 43:14 44:22 45:12,15 46:5, 19 51:5,9,13,23 52:9 53:2,16,22,24 54:5, 12 55:22 57:6,20 58:10,11,17 59:8,12, 24 60:19 63:4,6 65:12,17 67:22 68:11,22 69:3,18,21, 25 70:10,16,24 71:6, 12,18,25 72:9,15,20 73:2,11,17,22 74:5, 10,20 75:10,22,23 76:5 78:7 79:8 80:8 81:16,18 84:11 85:5 86:2 89:23 90:2,3,4, 10,12 91:2,18 92:10, 20 93:4,10 nuances 88:2 number 24:4,6,22 25:8,10,21 26:10,14 27:10,19 28:14,22 45:12,18 51:18 66:25 67:9,14 68:16	69:5,7,8 70:3,18 71:2,8,14,20 72:3,11 73:4,13,24 74:13,25 75:15 76:2,11 79:10, 19 80:18 81:7,21 85:21 86:4 87:12 90:6,13 91:5,8 92:24 93:11 obligation 67:21 70:22 88:3 obligations 23:19 35:19 40:17 52:16 59:13,23 64:21 68:10 71:24 72:25 74:4 obtain 13:18,22 58:20 62:18 obtained 61:13 occur 80:24 81:6,20, 25 92:3 occurred 29:16 40:6 78:25 79:7 80:23 occurring 22:4 October 11:22 64:2 office 50:22 omitted 55:6 one- 14:25 opinion 9:6 14:25 22:5 29:17 44:24,25 49:8,20,21 50:13,14, 17,20,24 54:3 59:17, 20 86:21 opportunity 15:15 17:9 oral 67:18 68:7 69:2, 20,24 70:6 order 15:21 16:13 17:14 18:21 30:10 66:12 91:25 ordinary 20:6 43:2,6 56:17,21 ourself 44:17 outlines 10:9 outstanding 37:14 43:15 74:21 75:11,22 76:6	oversee 47:10,18 overseeing 42:14 overseen 6:2 owed 52:17 62:4 owes 69:17 owing 36:14,23 52:20 53:9,15 68:11 ownership 28:10 89:19
P				
P-A-C-O-C-H-A 56:6				
Pacocha 56:4				
pages 15:11				
paid 63:25				
paragraph 20:9 22:8 37:11,22,23,25 38:2				
part 10:16 13:14 17:2 26:6 34:8 56:8 57:13 59:19 62:13 81:23 83:17 86:6,20 88:21				
parties 27:21 28:20 51:25 65:14				
partly 45:5				
partner 5:18,19,22 6:8 7:4 12:16 19:23, 24 49:9 50:17,18 87:3				
partners 87:4				
partnership 40:13 87:2				
partnership's 37:14				
party 19:21 23:16,19 24:7,11,23 28:6,7,25 34:19,23 59:6 89:16 90:8				
patience 93:17				
pay 44:23 57:7,13 58:2,8 60:13 66:6,12 67:12,13,21 68:10				
payment 67:4,10				
payments 38:21 51:8 58:10 64:10				

66:6	possibility 93:3	procedures 9:15 10:10 11:12 50:7 86:17	33:16 37:2,4 39:18 40:23 42:4,25 43:5, 19 44:6,20,25 46:8, 11 47:12 49:11 53:15 54:2 55:4 56:12 57:5 58:6,15 59:10,11,15, 22 61:18,25 64:12, 18,25 65:18 66:4 68:2,4 69:24 70:14, 22 71:5,11,17,23 72:8,14,19,24 73:10, 16,21 74:3,9,11,19, 22 75:9,12,20,24 76:4,9 77:15 78:6,7 79:15 80:2,6 81:17 82:15 83:17 84:4,9, 21 85:3,25 86:7,23 87:10,19 90:10,25 91:16,19 92:9,19 93:2,7	R
PCAOB 86:16 87:21 88:4,18 89:2,4	potential 26:5 80:7, 11 81:12,24 85:5 92:4,9	process 9:25 10:4,6, 14,23 31:7 47:23 49:12,16 50:15,22 56:10,12 58:6 59:25 86:6	raise 14:5	
Peet 5:3,10	potentially 74:14 81:19 84:12 86:3 88:24 91:3,18	produce 44:3	rate 65:13,14	
people 13:10,16 19:18 82:14,18,23 83:9 84:4	practice 9:19 21:17	produced 18:3	reach 62:2	
percent 33:24 51:14 78:17,18	practices 9:21	professional 9:5 50:10 81:23	read 27:13 29:11 63:15	
perform 10:10 11:13 50:6,9 86:18 87:20	preparation 31:8 43:7 45:18 46:2,3 47:10,14,24	promissory 23:13, 15 39:7 40:13 63:4,6, 8,12,13,17 67:22 68:11 69:3,18,21,25 70:6 81:15 93:4,10	reader 34:13 80:21	
performed 9:16 42:22 88:17	prepare 13:19 14:10 42:25 43:5 47:15	promulgated 87:21	reading 34:13	
period 11:16 40:19 46:25 47:12,19	prepared 33:6 35:13 41:13,18,22,24,25 55:25 56:3,17,21	properly 27:22	reason 33:16 39:18 54:4	
periodic 83:11	prepares 20:5	provide 8:18 9:8 14:9,21 15:9 16:13 23:5 51:24 57:24 59:7	reasonable 8:18 9:9 15:21 16:14 22:19 32:16 38:10,14,24 50:5 57:20 59:7 65:7, 10,13	
person 83:4 85:9	presented 9:18	provided 16:24 19:14 40:9 45:2 52:12 54:19 59:10 65:24 79:14	reasonableness 61:19,20	
personal 17:2	pretty 10:6 82:11	providers 89:22	reasons 75:16	
personally 6:23 16:22 30:21 31:2 50:23	previous 87:23	proxy 38:10,24	recall 6:25 12:15,20 23:3 31:6 47:22 48:10 65:9 66:8,24 83:22	
perspective 8:17 17:6 26:16 28:18 29:14	Previously 14:4	public 58:14,15,19, 22 86:15,16 88:13	receivable 37:15,16 44:15 53:24 68:23	
pertains 41:7	Price 13:11	pull 48:10	receivables 23:20, 21 32:13	
phase 11:6,10,11,14 13:13,15 49:18	Pricewaterhouseco opers 5:15,17,20,23 6:7 13:18 14:8,17	purpose 8:17 9:8 17:7 36:7 42:16,18 44:12,14 59:5 62:8, 11 65:2,19,25 80:20	receive 16:18	
phases 12:18	Pricewaterhouseco opers' 6:19 8:16	purposes 12:17 13:11 23:18	recollection 18:22	
phrase 11:5 41:16	primary 12:17,20 13:3	put 17:21 18:15,22 25:14 30:4 41:5	record 5:9 18:5 33:11 43:23 77:3	
piece 46:4	principal 39:9 61:10 63:3 64:3 67:5,12 74:21 75:11,22 76:6	Pwc 6:13 9:25 10:23 12:5,9 14:10,13,21 15:13,15,19,20 16:12,18,24 17:14,17 19:14 20:5 21:17,23 23:4 25:20 26:2,9,24 27:7,9,25 29:3,23	recorded 26:22 38:8 60:15 62:17	
place 79:17	principle 29:21		recoverability 32:17 57:16	
planning 10:7,11 11:9,10,12,18,23 12:4,18	prior 6:7 14:23 22:4,5 37:3,5 51:8,10 71:5, 11,17,23 72:8,14,19, 24 73:11,17,22 74:4		recoverable 59:8 60:10,19	
plural 37:13	private 88:13,14		refer 7:10	
point 50:9 76:25 79:9 87:25	probability 80:11 81:6 92:2,4		reference 20:10 34:6	
points 13:3	problem 77:4,6		referenced 46:16	
portion 30:9 32:10 35:18 39:3,6 52:15 54:5 64:3,4 67:11,12	procedure 42:21		referred 70:10	
portions 18:20			referring 8:21 79:6	

Q**qualitative** 57:19

question 7:24 8:11
16:11 18:23 30:11,25
33:17 35:23 44:18
45:20,22 47:17 60:8
62:6,13 69:15 70:23
74:16 76:19 78:9,23
79:11,20 80:19 81:8,
22 83:2 84:25 85:22
87:13,24 90:7,14
91:2,6,13

questions 7:21
15:20 16:12 18:17
24:2 56:25 72:5 73:7
75:20 76:15 77:10,
12,14 78:4,5,12 79:4
82:7,9,12 84:7,9
90:23 92:14 93:14

quickly 55:12

quote 34:7,9 37:13
89:14

Index: reflect..steps

reflect 46:8,10	represent 22:22	restate 47:16	series 20:20	South 6:15
reflected 62:9	representation 16:18,23 17:4,7,13, 18,24 19:13 20:5,14 22:16 24:3,6,22 25:8, 10,12,21 26:3,10,14, 25 27:9,12,19 28:2, 14,18,22 29:4,20,24 48:9,18 49:4	resulted 78:22	service 89:22	specific 7:8 28:7 66:9,24 80:15 85:23 87:5
refresh 18:22		results 45:7 60:14,23	set 9:2 35:14 43:19 44:4,22 46:19 49:5 52:19 53:16 54:17 59:13,15 73:7	specifically 28:6 41:17 58:12 59:4 83:25
related 27:21 28:7, 20,24 34:19,23 51:25 57:12,25 64:20 65:12 84:2	representations 17:10 20:20 21:2,13, 18,24 22:9 24:2,17 48:25	retain 41:12	sets 36:13 86:19	speed 82:8
related-party 35:2 51:19 89:7,12,13,16 90:2,4,12	represented 24:10, 11 25:22 27:20 28:23 60:18	review 12:10 14:22 15:16 17:3 18:13,21 85:7,11 87:17	setting 11:12	spell 56:5
relates 31:19 45:24 51:19 55:22 58:9	representing 26:19 27:7	reviewed 46:3	share 10:12,15	spend 11:16
relating 83:25	request 14:5 18:19 26:2 27:25	reviewing 86:8,24 87:8	sheet 20:10,14 24:13 29:16 32:11,21 33:13,22 36:9,19 40:7,18 42:20 51:3 53:2 61:11 75:5,8	stage 10:11 11:2,18 12:4
relationships 35:2	requests 10:18 11:8 12:5 14:18	rights 77:7	sheets 32:3 33:4,19	stand-alone 34:14
relevance 87:15	require 21:17,23 26:7 48:15,17 54:14 75:7	risk 44:9,13 57:2,12	show 60:12 63:2	standard 20:7 21:16
relevant 10:9 15:21 45:17 46:13 78:3 87:9,17,19	required 17:14 29:17,20 34:15 48:24 49:6 50:3 52:3 54:24 74:11,23 75:13,24 76:9 77:15,21 78:8 79:2,5,16	road 91:17	shows 33:22 60:7 63:23	standards 8:20,21, 23,25 9:5,11,17,20 10:9 15:24 16:6 22:3 26:7 27:2 48:23 86:16 87:22 88:18,19 89:2
reliability 62:3	requirement 34:24	rules 7:19 9:2,4 70:21 86:20 89:4	side 77:2	start 10:25 77:11
relied 17:18 86:17	requirements 89:3	save 11:16	sign 9:6 19:25	started 7:18
relies 86:14	requires 40:7 49:7	scope 17:11 50:8 86:18	sign-off 17:14,19 49:13 59:5 85:12	starting 19:20 38:3
relieved 67:21 68:9	reserve 77:7	screen 17:21 18:16 30:16 31:13 41:6	signature 29:7 50:25	starts 10:6
rely 14:9 23:4 26:9 27:5,7,9 28:10 29:3, 23 59:15	respect 46:6 65:22 72:6 75:17 81:15 82:24 92:9	scroll 20:18,24 34:3 35:4 37:19 39:23 45:11 63:12 67:8	signatures 19:5,8	state 5:8
relying 86:8,24 87:7, 9	response 12:8 79:4	section 34:19 35:14 36:2,13 37:7 38:2 39:24 40:3,12 51:23 52:8,19 54:12,18 57:2 58:24	signed 14:25 19:18 29:4,25	stated 25:2 53:21
remember 77:16,19 78:6,9 84:8,13 89:8	responsibilities 17:3	secure 13:24 14:5,6	significant 40:6 89:20	statement 45:16 87:9,17
remind 30:8	responsibility 15:9 71:3 81:24 91:10	send 11:8,9	signing 26:10 27:10 37:5	statements 7:6 9:10 10:3 13:20 14:11 15:2,5,7,12,17,22 16:15 26:6,23 27:23 30:4,19,23 31:4,9 34:9,25 37:6 39:4 41:19 44:4 46:23,24 47:11,19 53:20 56:22 61:15 62:17 75:6 80:22 81:2 86:9,25 88:25
rep 19:25	responsible 19:21 42:13	senior 42:7,8	single 10:16	stating 38:23
repay 44:19 57:23 58:17,23 59:12,23 60:8	rest 30:15 46:4	sense 10:18 19:22 22:23 86:19	singular 37:13	status 83:11
repeating 30:24 62:6		sentence 21:10 24:22 29:7,14,24 37:12,22 38:5,6,23	sir 30:19 37:24 43:11 69:15 76:15 92:17	stems 60:8
rephrase 16:11		separate 21:2	sister 67:18 68:7	step 12:13
report 42:10 48:18 49:5,9 56:7 86:13		September 11:22	site 13:24,25 14:5,7, 13	steps 58:6
reported 27:22			slide 44:22	
reporter 8:5			slightly 11:20	
reports 14:22,24 42:12			sort 9:4 12:21 13:6 26:4 58:21 77:5 81:17 90:24,25 91:19	

Index: stop..years

stop 20:19 76:19,25 straight 35:4 stream 89:17 strike 36:8 strongly 18:18 structure 89:19 stuff 69:10 77:2 subheading 35:7 subject 51:8,9 84:22 subparts 21:4 subsequent 39:24 40:23 48:24 54:14,23 55:5 67:23 68:12 72:2 73:3 74:7 76:9 77:25 80:20 summary 25:15 43:25 supposed 10:10 11:13 38:7 40:5 sworn 5:4	50:5 87:20 test 61:18 62:20 testified 5:4 57:4 84:19 testify 80:16 testifying 84:13 testimony 79:15 testing 61:5,25 62:8 65:16 things 28:24 49:25 77:14 82:8 86:7 third-party 87:6 thought 15:20 ties 45:16 time 6:7 7:6,20 8:7 11:7,17 12:15 13:24 14:23 30:8 37:3,5 39:17 55:13 56:25 70:7 76:19 77:5,9 79:9 93:17 time-to-time 23:11 title 5:16 32:13 42:6 today 77:6,8 79:15 80:16 told 66:4 77:5 top 19:12 21:7 25:9 31:12 45:11 topics 89:6 total 61:9 totaling 63:4 track 47:5 transaction 11:15 88:15 89:12 90:12 transactions 24:12 26:20 27:5,6,21 28:8, 25 34:19,23 35:2 51:19,24 89:7 trial 43:21,24 44:5 61:14 two-page 14:25 type 43:2 75:6 typical 14:17	typically 13:10 20:5 77:24 <hr/> U <hr/> unable 59:23 unaffiliated 90:8 uncorrected 25:15 50:2 understand 8:4,11, 12 10:13 19:7,12 20:22 25:20 32:24 41:20 77:3 understanding 24:9 25:10 34:22 36:12 38:4 45:23 64:11 65:24 66:10 70:20 80:11 understood 78:23 undertaken 62:9 undertaking 46:8 undertook 9:25 58:7 undue 50:8 unit 6:19 11:3 unqualified 50:13, 20 upload 14:2,6 upstream 89:19 users 88:11 <hr/> V <hr/> vague 69:9 valuation 79:23 91:23 verbatim 89:14 versus 90:12 view 26:8 87:25 visits 14:13,16 <hr/> W <hr/> WANDER 9:12 16:2, 7 24:14 30:12 32:24	36:5 45:25 60:5 68:18 88:12 93:21 Waterhouse 13:4,11 19:9,15,17,20 21:3, 11 23:5 24:10,18 25:22 27:20 28:23 70:21 72:6,8,14,19, 24 83:7,16 Wilson 83:4,15 withdrawn 27:8 32:7 35:12 37:3 39:4,14, 16 46:9 53:6 55:2 56:11 61:2,8 68:3 word 8:5 13:6 words 26:18 38:20 46:14 50:4,7 86:15 work 11:15 42:14 44:7 60:14 77:2 78:22 81:24 82:24 85:14 87:19 88:21 worked 82:14 84:4 working 6:24 workpaper 41:11 43:6 workpapers 10:15 41:2,6 42:25 55:8,21 56:14 58:25 59:19 68:17,22 written 69:2,20,24 70:6 wrong 25:23 53:17	
<hr/> T <hr/> tab 43:9,13,20 44:9 45:7,14 57:3,11 62:14,23 64:6 68:16, 21 70:10,16 tabs 45:17 46:13,15, 18 taking 8:5 talked 89:7 90:24 talking 41:17 69:10 77:22 78:16 82:2 tax 64:7,8,9,10,14,20 66:6 taxes 66:12 team 13:11 56:8 technology 18:25 template 20:8 45:8 60:23 term 38:19 90:5 terms 8:19 9:16,18 17:11 25:19 36:11			<hr/> Y <hr/> year 10:23 11:20,24 16:24 20:15 21:9,19 41:19 43:16 51:10 52:21 82:10 year-end 22:4 years 6:20 13:23 51:8 82:9 85:19	

EXHIBIT 95

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:)
) CHAPTER 11
HIGHLAND CAPITAL)
MANAGEMENT, L.P.,) CASE NO.
) 19-34054-sgj11
Debtor.)

)
HIGHLAND CAPITAL)
MANAGEMENT, L.P.,)
) Adversary Proceeding
Plaintiff,) No. 20-3190-sgj11
)
v.)
)
JAMES D. DONDERO,)
)
Defendant.)

REMOTE VIDEO-RECORDED DEPOSITION OF
JAMES D. DONDERO
TUESDAY, JANUARY 5, 2021

REPORTED BY:

MICHAEL E. MILLER, FAPR, RDR, CRR

JOB NO. 188154

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 Tuesday, January 5, 2021</p> <p>6 9:50 a.m. CST</p> <p>7</p> <p>8</p> <p>9 REMOTE ORAL VIDEO-RECORDED DEPOSITION</p> <p>10 OF JAMES D. DONDERO, held via Zoom conference</p> <p>11 pursuant to the Federal Rules of Civil Procedure</p> <p>12 before Michael E. Miller, Fellow of the Academy</p> <p>13 of Professional Reporters, Registered Diplomate</p> <p>14 Reporter, Certified Realtime Reporter and Notary</p> <p>15 Public in and for the State of Texas.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 REMOTE APPEARANCES:</p> <p>3 PACHULSKI STANG ZIEHL & JONES</p> <p>4 Attorneys for Debtor</p> <p>5 780 Third Avenue</p> <p>6 New York, NY 10017</p> <p>7 BY: JOHN MORRIS, ESQ.</p> <p>8 HAYLEY WINOGRAD, ESQ.</p> <p>9 JEFFREY POMERANTZ, ESQ.</p> <p>10 GREGORY DEMO, ESQ.</p> <p>11 IRA KHARASCH, ESQ.</p> <p>12</p> <p>13 LATHAM & WATKINS</p> <p>14 Attorney For UBS</p> <p>15 885 Third Avenue</p> <p>16 New York, NY 10022</p> <p>17 BY: SHANNON MCLAUGHLIN, ESQ.</p> <p>18 ZACHARY PROULX, ESQ.</p> <p>19</p> <p>20 JENNER & BLOCK</p> <p>21 Attorney for Redeemer Committee</p> <p>22 353 North Clark Street</p> <p>23 Chicago, IL 60654</p> <p>24 BY: TERRI MASCHERIN, ESQ.</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 REMOTE APPEARANCES:</p> <p>3 SIDLEY AUSTIN</p> <p>4 Attorneys For the Creditors Committee</p> <p>5 2021 McKinney Avenue</p> <p>6 Dallas, TX 75201</p> <p>7 BY: PENNY REID, ESQ.</p> <p>8 PAIGE MONTGOMERY, ESQ.</p> <p>9 MATTHEW CLEMENTE, ESQ.</p> <p>10 ALYSSA RUSSELL, ESQ.</p> <p>11</p> <p>12 KING & SPALDING</p> <p>13 Attorney for Highland CLO Funding, Ltd.</p> <p>14 500 West 2nd Street</p> <p>15 Austin, TX 78701</p> <p>16 BY: REBECCA MATSUMURA, ESQ.</p> <p>17</p> <p>18 BONDS ELLIS EPPICH SCHAFER JONES</p> <p>19 Attorneys for James Dondero</p> <p>20 420 Throckmorton Street</p> <p>21 Fort Worth, TX 76102</p> <p>22 BY: JOHN BONDS, ESQ.</p> <p>23 BRYAN ASSINK, ESQ.</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 REMOTE APPEARANCES:</p> <p>3 DEBEVOISE & PLIMPTON</p> <p>4 Attorneys for HarbourVest Partners</p> <p>5 919 Third Avenue</p> <p>6 New York, NY 10022</p> <p>7 BY: ERICA WEISGERBER, ESQ.</p> <p>8</p> <p>9 CARLYON CICA CHARTERED</p> <p>10 Attorneys for Integrated Financial</p> <p>11 Associates Inc.</p> <p>12 265 East Warm Springs Road</p> <p>13 Las Vegas, NV 89119</p> <p>14 BY: CANDACE CARLYON, ESQ.</p> <p>15</p> <p>16 ALSO PRESENT:</p> <p>17 La Asia Canty, Paralegal</p> <p>18 Pachulski Stang Ziehl & Jones LLP</p> <p>19</p> <p>20 VIDEOGRAPHER:</p> <p>21 Rick Richey, TSG Reporting Inc.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 2 3 PROCEEDINGS 4 January 5, 2021, 9:50 a.m. CST 5 6 THE VIDEOGRAPHER: Good morning, 7 ladies and gentlemen. My name is Rick Richey. 8 I'm a legal videographer in association with 9 TSG Reporting Inc. 10 Due to the severity of the COVID-19 11 and following the practice of social distancing, 12 I will not be in the same room with the witness. 13 Instead, I will record this videotaped deposition 14 remotely. 15 The court reporter, Mike Miller, also 16 will not be in the same room and will swear the 17 witness remotely. 18 Do all parties stipulate to the 19 validity of this video recording and remote 20 swearing and that it will be admissible in the 21 courtroom as if it had been taken following Rule 22 30 of the Federal Rules of Civil Procedure and 23 the state rules where the case is pending? 24 Do all agree? 25 MR. MORRIS: Yes.</p>	<p style="text-align: right;">Page 7</p> <p>1 2 MR. BONDS: Yes. 3 MR. MORRIS: Does anyone not agree? 4 (Pause.) 5 MR. MORRIS: Having heard nothing, 6 let's proceed. Thank you. 7 THE VIDEOGRAPHER: This will be the 8 start of Media No. 1 in the video-recorded 9 deposition of James Dondero. Today's date is 10 January 5th, 2021. It's 9:52 a.m. Central 11 Standard Time. 12 The case is In re Highland Capital 13 Management LP, Debtor, Chapter 11, Case 14 No. 19-34054-sgj11 in the United States 15 Bankruptcy Court for the Northern District of 16 Texas, Dallas Division. 17 The attorneys' appearances have 18 already been noted on the steno record, so would 19 the court reporter please swear the witness. 20 MR. BONDS: Wait just one second. 21 There's an adversary proceeding that this case is 22 actually -- or this deposition is actually being 23 taken in. It's 20-03190-sgj. Thank you. 24 /// 25 ///</p>
<p style="text-align: right;">Page 8</p> <p>1 J. DONDERO 2 3 JAMES D. DONDERO, 4 having been duly sworn, 5 testified as follows: 6 7 EXAMINATION 8 9 BY MR. MORRIS: 10 Q. Good morning, Mr. Dondero. Can you 11 hear me okay? 12 A. Yes. 13 Q. Okay. My name is John Morris from 14 Pachulski Stang Ziehl & Jones, counsel for the 15 debtor. 16 Where are you located this morning, 17 sir? 18 A. Highland Capital Management's 19 conference room, same as last time. 20 Q. Is there anybody in the room with you 21 right now? 22 A. No. 23 Q. Do you have a telephone with you? 24 A. Yes. 25 Q. Is the phone off?</p>	<p style="text-align: right;">Page 9</p> <p>1 J. DONDERO 2 A. Yes. 3 Q. Are you aware that the debtor sent a 4 letter to your lawyers instructing you not to be 5 on the premises after December 31st, 2020? 6 A. Yes. 7 Q. Did you get the debtor's permission 8 to enter the premises this morning? 9 A. Implicitly for this depo, I believe. 10 Q. Okay. Did you get any explicit 11 consent or approval for you to be in the offices 12 this morning? 13 A. Not that I'm aware of. 14 Q. Did you ask or did anybody on your 15 behalf ask the debtors if you could participate 16 in today's deposition at the Highland offices? 17 A. I don't know. 18 Q. You're not aware of that, right? 19 A. Correct. 20 Q. Okay. John Bonds is defending you 21 today; is that right? 22 A. Yes. 23 Q. And he's at the Bonds Ellis firm, 24 right? 25 A. Yes.</p>

<p>Page 10</p> <p>1 J. DONDERO</p> <p>2 Q. And the Bonds Ellis firms represents</p> <p>3 you in your individual capacity, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Is there any other law firm that</p> <p>6 represents you in your individual capacity in the</p> <p>7 Highland bankruptcy or in the adversary</p> <p>8 proceeding?</p> <p>9 A. I don't believe so.</p> <p>10 Q. Okay. Does the Bonds Ellis firm</p> <p>11 represent any entity in which you have an</p> <p>12 ownership or control interest, or do they just</p> <p>13 represent you in your individual capacity?</p> <p>14 A. I don't know for sure.</p> <p>15 Q. Okay. But as you sit here right now,</p> <p>16 do you have any reason to believe that the Bonds</p> <p>17 Ellis firm represents anybody other than you in</p> <p>18 your individual capacity in connection with the</p> <p>19 bankruptcy case?</p> <p>20 A. I don't know.</p> <p>21 Q. Okay. You understand that we're here</p> <p>22 today for your deposition, right?</p> <p>23 A. Yes.</p> <p>24 Q. And do you understand that today's</p> <p>25 deposition is being taken in connection with the</p>	<p>Page 11</p> <p>1 J. DONDERO</p> <p>2 debtor's motion for – (audio malfunction) –</p> <p>3 (Clarification requested by the</p> <p>4 stenographer.)</p> <p>5 MR. MORRIS: I'll ask it again.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Mr. Dondero, do you understand that</p> <p>8 today's deposition is being taken in connection</p> <p>9 with the debtor's motion for preliminary</p> <p>10 injunction against you?</p> <p>11 A. Yes.</p> <p>12 Q. Do you intend to participate in the</p> <p>13 hearing on the debtor's motion for preliminary</p> <p>14 injunction?</p> <p>15 MR. BONDS: Objection, form.</p> <p>16 MR. MORRIS: You can answer.</p> <p>17 A. I don't know.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Do you intend to make – do you</p> <p>20 intend to testify at the debtor's hearing for</p> <p>21 preliminary injunction?</p> <p>22 MR. BONDS: Objection, form.</p> <p>23 A. I don't know.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. You may or you may not; is that</p>
<p>Page 12</p> <p>1 J. DONDERO</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Are you on any drugs or any</p> <p>5 medication right now?</p> <p>6 A. No.</p> <p>7 Q. Is there anything that you're aware</p> <p>8 of that might affect your memory today?</p> <p>9 A. No.</p> <p>10 Q. Are you aware of anything that would</p> <p>11 prevent you from testifying competently today to</p> <p>12 the best of your ability?</p> <p>13 A. No.</p> <p>14 Q. You understand that you're under oath</p> <p>15 right now?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware that on December 10th</p> <p>18 the debtor obtained a temporary restraining order</p> <p>19 against you?</p> <p>20 A. Roughly.</p> <p>21 Q. Okay. Did you ever personally read a</p> <p>22 copy of the temporary restraining order?</p> <p>23 A. No.</p> <p>24 Q. So you've never seen the order</p> <p>25 itself; is that right?</p>	<p>Page 13</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: Objection, form.</p> <p>3 A. Correct.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Do you have an understanding of what</p> <p>6 the order restrains you from doing?</p> <p>7 A. Just in the most general sense.</p> <p>8 Q. Tell me your understanding of what</p> <p>9 the temporary order restrains you from doing.</p> <p>10 A. Talking to the independent board</p> <p>11 directly or talking directly to Highland</p> <p>12 employees.</p> <p>13 Q. Is there any other aspect of the</p> <p>14 temporary restraining order that you're aware of</p> <p>15 that would otherwise constrain or restrain your</p> <p>16 conduct?</p> <p>17 A. Those are the points I remember.</p> <p>18 Q. Do you recall that before the Court</p> <p>19 entered the temporary restraining order, it held</p> <p>20 a hearing to consider the debtor's request?</p> <p>21 A. I – I don't know.</p> <p>22 Q. Did you listen to the hearing?</p> <p>23 A. No.</p> <p>24 Q. Did you read a transcript of the</p> <p>25 hearing?</p>

<p>Page 14</p> <p>1 J. DONDERO</p> <p>2 A. No.</p> <p>3 Q. Do you respect the Court's authority</p> <p>4 in this case?</p> <p>5 MR. BONDS: Objection, form.</p> <p>6 A. Yes.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Is there any particular reason why</p> <p>9 you didn't take the time to read the Court's</p> <p>10 temporary restraining order that was entered</p> <p>11 against you?</p> <p>12 A. No.</p> <p>13 Q. James Seery is a member of the board</p> <p>14 of Strand Advisors, the debtor's general partner,</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 Q. And you've been aware of that since</p> <p>18 at least last January, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And you're also aware that Mr. Seery</p> <p>21 is the debtor's CEO and CRO, right?</p> <p>22 A. Yes.</p> <p>23 Q. And you've been aware of that since</p> <p>24 last July, correct?</p> <p>25 A. Yes.</p>	<p>Page 15</p> <p>1 J. DONDERO</p> <p>2 Q. Did you ever review the declaration</p> <p>3 that Mr. Seery submitted in connection with the</p> <p>4 debtor's motion for a temporary restraining order</p> <p>5 against you?</p> <p>6 MR. BONDS: Objection, form.</p> <p>7 A. No.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Do you know what Mr. Seery alleged in</p> <p>10 his declaration – withdrawn.</p> <p>11 Do you know the substance of what</p> <p>12 Mr. Seery alleged in his declaration in support</p> <p>13 of the debtor's motion for the TRO?</p> <p>14 A. No.</p> <p>15 Q. Did you care that the debtor was</p> <p>16 seeking a TRO against you?</p> <p>17 A. I didn't think about it.</p> <p>18 Q. Have you thought about it since the</p> <p>19 order was entered?</p> <p>20 A. Not really.</p> <p>21 Q. Okay. You didn't submit a</p> <p>22 declaration of your own in opposition of the</p> <p>23 motion for TRO, right?</p> <p>24 A. I don't know.</p> <p>25 Q. You don't recall signing anything, do</p>
<p>Page 16</p> <p>1 J. DONDERO</p> <p>2 you?</p> <p>3 A. I've signed a lot of things, but</p> <p>4 I'm – I don't recall an opposition.</p> <p>5 Q. Let's talk about some of the events</p> <p>6 that led to the entry of the TRO.</p> <p>7 The debtor serves – (audio</p> <p>8 malfunction) –</p> <p>9 (Clarification requested by the</p> <p>10 stenographer.)</p> <p>11 THE WITNESS: I didn't touch the</p> <p>12 microphone at this end and it's six inches or</p> <p>13 eight inches from my mouth.</p> <p>14 MR. MORRIS: Yeah, let's try again,</p> <p>15 Mr. Dondero. Thank you.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. The debtor serves as the portfolio</p> <p>18 manager for certain collateralized loan</p> <p>19 obligation vehicles; isn't that right?</p> <p>20 A. I don't want to testify to that.</p> <p>21 Q. Does the – does the debtor manage</p> <p>22 CLOs?</p> <p>23 MR. BONDS: Objection, form.</p> <p>24 MR. MORRIS: Withdrawn.</p> <p>25 ///</p>	<p>Page 17</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Can we agree that CLO stands for</p> <p>4 collateralized loaning obligations?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And does the debtor – is the</p> <p>7 debtor party to certain contracts that gives it</p> <p>8 the right and responsibility to manage certain</p> <p>9 CLO vehicles?</p> <p>10 MR. BONDS: Objection, form.</p> <p>11 MR. MORRIS: You can answer.</p> <p>12 A. Yes.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. And you're aware of that because you</p> <p>15 personally signed some of those contracts and</p> <p>16 agreements, right?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. NexPoint Advisors LP, are you</p> <p>19 familiar with that firm?</p> <p>20 A. Yes.</p> <p>21 Q. That's an advisory firm; is that</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. And we'll just refer to that as</p> <p>25 NexPoint; is that okay?</p>

<p>Page 18</p> <p>1 J. DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. You have a direct or indirect</p> <p>4 economic or ownership interest in NexPoint,</p> <p>5 correct?</p> <p>6 MR. BONDS: Objection, form.</p> <p>7 MR. MORRIS: You can answer.</p> <p>8 A. Yes.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. You're the president of NexPoint,</p> <p>11 correct?</p> <p>12 A. I believe so.</p> <p>13 Q. And you own NexPoint's general</p> <p>14 partner; is that right?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know who owns NexPoint's</p> <p>17 general partner?</p> <p>18 A. No.</p> <p>19 Q. As the president of NexPoint, is it</p> <p>20 fair to say that you control that entity?</p> <p>21 A. Generally.</p> <p>22 Q. Highland Capital Management Fund</p> <p>23 Advisors LP, are you familiar with that firm?</p> <p>24 A. Yes.</p> <p>25 Q. And that's also an advisory firm,</p>	<p>Page 19</p> <p>1 J. DONDERO</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. And we'll refer to that firm as Fund</p> <p>5 Advisors; is that fair?</p> <p>6 A. Sure.</p> <p>7 Q. And we'll refer to Fund Advisors and</p> <p>8 NexPoint together just as "the advisors"; is that</p> <p>9 fair?</p> <p>10 A. I think you should be more specific</p> <p>11 than that, but –</p> <p>12 Q. Okay. I apologize. Are you</p> <p>13 finished?</p> <p>14 If at any time I ask a question and</p> <p>15 you don't understand, will you let me know that?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You have a direct or indirect</p> <p>18 economic or ownership interest in Fund Advisors,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. You're the president of Fund</p> <p>22 Advisors; is that true?</p> <p>23 A. I believe so.</p> <p>24 Q. And you own Fund Advisors' general</p> <p>25 partner; is that right?</p>
<p>Page 20</p> <p>1 J. DONDERO</p> <p>2 A. I don't believe I own as much of it</p> <p>3 as I own of NexPoint, but I don't know the</p> <p>4 numbers.</p> <p>5 Q. Okay. As one of the two beneficial</p> <p>6 owners of Fund Advisors and as the president of</p> <p>7 Fund Advisors, is it fair to say that you control</p> <p>8 that entity?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And Fund Advisors and NexPoint</p> <p>11 manage certain investment funds; is that right?</p> <p>12 A. I'm sorry, I missed the point of that</p> <p>13 question.</p> <p>14 Q. Didn't hear? Okay.</p> <p>15 Fund Advisors, which we've talked</p> <p>16 about, and NexPoint, which we've talked about,</p> <p>17 those two entities manage certain investment</p> <p>18 funds; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. And one of the investment funds that</p> <p>21 the advisors manage is Highland Income Fund. Do</p> <p>22 I have that right?</p> <p>23 A. Yes. I'm not sure which fund that</p> <p>24 is, but yes, that's – that's one of them.</p> <p>25 Q. Are you the portfolio manager of the</p>	<p>Page 21</p> <p>1 J. DONDERO</p> <p>2 Highland Income Fund?</p> <p>3 A. I believe so.</p> <p>4 Q. Do you hold any titles at the</p> <p>5 Highland Income Fund other than portfolio</p> <p>6 manager?</p> <p>7 MR. BONDS: To the extent you know.</p> <p>8 Don't speculate.</p> <p>9 A. I don't – I don't know. I know I'm</p> <p>10 portfolio manager on virtually all of the funds.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Is there any fund that you're not the</p> <p>13 portfolio manager for that you're aware of?</p> <p>14 A. I don't know.</p> <p>15 Q. Are you the portfolio manager of</p> <p>16 NexPoint Capital Inc.?</p> <p>17 A. If that name refers to a fund, I</p> <p>18 believe so.</p> <p>19 Q. Okay. You're not sure if that refers</p> <p>20 to a fund?</p> <p>21 A. There's a fund with the symbol NHF.</p> <p>22 If that's the name – which I don't think you</p> <p>23 have the exact name. If that's the name of it,</p> <p>24 then I believe – I believe I'm the portfolio</p> <p>25 manager. The name that you just gave sounded</p>

<p>Page 22</p> <p>1 J. DONDERO</p> <p>2 more like a holding company name or a subsidiary</p> <p>3 name for NexPoint. If it's not a fund, I'm not</p> <p>4 the portfolio manager. If it is a fund, I</p> <p>5 believe I am.</p> <p>6 Q. Okay. Do you hold – are you</p> <p>7 familiar with an entity called NexPoint</p> <p>8 Capital Inc.?</p> <p>9 A. No.</p> <p>10 Q. Okay. How about NexPoint Strategic</p> <p>11 Opportunities Fund, is that a fund that is</p> <p>12 managed by one of the advisors?</p> <p>13 A. I believe that's the name for NHF.</p> <p>14 That's what I thought you were referring to.</p> <p>15 That's the one that's a fund, and that's the one</p> <p>16 that I'm portfolio manager on.</p> <p>17 Q. Okay. Do you hold any titles at</p> <p>18 NexPoint Strategic Opportunity Fund other than</p> <p>19 portfolio manager?</p> <p>20 A. I don't know.</p> <p>21 Q. The advisors caused each of the funds</p> <p>22 to invest in certain CLOs that are managed by the</p> <p>23 debtor, right?</p> <p>24 MR. BONDS: To the extent you know.</p> <p>25 Don't speculate.</p>	<p>Page 23</p> <p>1 J. DONDERO</p> <p>2 MR. MORRIS: John, if there's an</p> <p>3 objection, I welcome it. If there's a direction</p> <p>4 not to answer, I welcome it. But what I don't</p> <p>5 welcome is guiding the witness. If he doesn't</p> <p>6 remember, he's done this so many times, he knows</p> <p>7 what he's doing.</p> <p>8 You want me to ask the question</p> <p>9 again, Mr. Dondero?</p> <p>10 THE WITNESS: Please.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. The two advisors that we talked</p> <p>13 about, they manage funds, right?</p> <p>14 A. Yes.</p> <p>15 Q. And those funds have invested in</p> <p>16 certain CLOs that are managed by the debtor,</p> <p>17 correct?</p> <p>18 A. The problem I have with that question</p> <p>19 and the part that I don't want to testify as</p> <p>20 agreeing to or acknowledging is that the debtor</p> <p>21 manages those CLOs, because I won't testify to</p> <p>22 the debtor being in good standing, and I won't</p> <p>23 testify to the debtor not being in default, and I</p> <p>24 won't testify to the debtor having the capability</p> <p>25 to manage those CLOs –</p>
<p>Page 24</p> <p>1 J. DONDERO</p> <p>2 Q. Will you – I'm sorry to interrupt.</p> <p>3 Go ahead.</p> <p>4 A. No, I mean, that's – so I won't – I</p> <p>5 won't testify affirmatively to the second half of</p> <p>6 that question.</p> <p>7 Q. Okay. But you will admit, won't you,</p> <p>8 that the debtor has – is party to contracts that</p> <p>9 give it the right to manage CLOs in which the</p> <p>10 advisors caused the funds to invest, right?</p> <p>11 MR. BONDS: Objection, form.</p> <p>12 MR. MORRIS: You can answer.</p> <p>13 A. The beginning and end of what I want</p> <p>14 to testify to is that the advisor is parties –</p> <p>15 party to contracts. The contracts have –</p> <p>16 provide the ability to manage assets in the CLO</p> <p>17 subject to a bunch of different things, subject</p> <p>18 to not being in default, subject to the ability,</p> <p>19 subject to the capability and being registered</p> <p>20 advisor, et cetera, et cetera.</p> <p>21 I don't want to have any testimony</p> <p>22 that implies that the advisor is in good standing</p> <p>23 or able or capable of managing those CLOs or that</p> <p>24 Jim Seery is even an investment professional.</p> <p>25 ///</p>	<p>Page 25</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. I think I understand.</p> <p>4 When you used the word "advisor" in</p> <p>5 your last answer, you were referring to the</p> <p>6 debtor, is that right?</p> <p>7 MR. BONDS: Objection, form.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. It's the debtor that has – let me</p> <p>10 try again.</p> <p>11 It's the debtor that has the</p> <p>12 contracts with the CLO, right?</p> <p>13 A. Yes.</p> <p>14 Q. But it's your contention that the</p> <p>15 debtor is in default and that Mr. Seery and the</p> <p>16 debtor otherwise don't have the capability to</p> <p>17 manage the CLOs. That's what you're saying,</p> <p>18 right?</p> <p>19 A. I don't want to argue, and it's for</p> <p>20 the lawyers and the Court to decide, but I don't</p> <p>21 want to be affirmatively acknowledging that</p> <p>22 Seery's an investment professional. I don't want</p> <p>23 to be affirmatively acknowledging that he has any</p> <p>24 employees and staff when he's told them all</p> <p>25 they're being terminated in the next few weeks.</p>

<p style="text-align: right;">Page 26</p> <p>1 J. DONDERO</p> <p>2 I don't want to acknowledge that he</p> <p>3 is in compliance and can operate those contracts</p> <p>4 if I believe those contracts are in default</p> <p>5 because, A, the advisor's in bankruptcy, and B,</p> <p>6 none of the key man provisions are being adhered</p> <p>7 to by the advisor.</p> <p>8 I don't want to in any form or</p> <p>9 fashion acknowledge or represent or somehow be</p> <p>10 twisted into testifying that he is in good</p> <p>11 standing or has the ability to manage those CLOs.</p> <p>12 It may be found by somebody that he is, but I</p> <p>13 don't want to be in any way inferred to be</p> <p>14 sanctioning it.</p> <p>15 Q. Okay. Are you aware – have any of</p> <p>16 the contracts pursuant to which the CLOs and the</p> <p>17 debtor are the parties, have any of those</p> <p>18 contracts been terminated, to the best of your</p> <p>19 knowledge, since the petition date?</p> <p>20 A. I believe they're subject to stays,</p> <p>21 among other things, but I'm not – I'm not a</p> <p>22 lawyer.</p> <p>23 Q. Has anybody sought to lift the stay</p> <p>24 in order to terminate the contracts, to the best</p> <p>25 of your knowledge?</p>	<p style="text-align: right;">Page 27</p> <p>1 J. DONDERO</p> <p>2 A. I don't know where – I don't know.</p> <p>3 Q. Has any of the CLOs ever contended</p> <p>4 that the debtor was in breach in their agreement?</p> <p>5 A. I believe the beneficial holders</p> <p>6 have.</p> <p>7 Q. I understand that –</p> <p>8 A. But I don't know – I don't know if</p> <p>9 the CLOs have.</p> <p>10 Q. Okay. I'm asking you a different</p> <p>11 question, and just answer my question.</p> <p>12 To the best of your knowledge, has</p> <p>13 any CLO contended that the debtor is in breach of</p> <p>14 any of the agreements that they have between</p> <p>15 them?</p> <p>16 MR. BONDS: Objection, form.</p> <p>17 A. I don't know.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. You're not aware of any such</p> <p>20 contention, right?</p> <p>21 A. I don't know.</p> <p>22 Q. You're not aware of any contention by</p> <p>23 the CLOs that the debtor is in default under any</p> <p>24 CLO contract, correct?</p> <p>25 MR. BONDS: Objection, form.</p>
<p style="text-align: right;">Page 28</p> <p>1 J. DONDERO</p> <p>2 A. I don't know regarding the CLOs.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Did you ever ask them? Withdrawn.</p> <p>5 Did you ever ask anybody on behalf of</p> <p>6 the CLOs whether they were going to declare a</p> <p>7 default under the CLO management agreements?</p> <p>8 MR. BONDS: Objection, form.</p> <p>9 A. I don't know.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. You don't know if you asked? I'm</p> <p>12 just asking you if you ever asked the question.</p> <p>13 A. Not of the CLOs. Those questions</p> <p>14 were asked regarding the beneficial owners, and I</p> <p>15 think the beneficial owners did that, but I</p> <p>16 didn't have direct knowledge or contact with the</p> <p>17 CLOs.</p> <p>18 Q. Okay. And the beneficial owners are</p> <p>19 not parties to the CLO management agreements</p> <p>20 between the CLOs and the debtor, correct?</p> <p>21 MR. BONDS: Objection, form.</p> <p>22 A. I don't want to draw a legal</p> <p>23 conclusion of the rights of the beneficial owners</p> <p>24 and the people who have the risk and the people</p> <p>25 who have the ultimate decision authority whether</p>	<p style="text-align: right;">Page 29</p> <p>1 J. DONDERO</p> <p>2 or not they can be circumvented or ignored by an</p> <p>3 intermediate nonfinancial – nonfinancially</p> <p>4 interested party. I don't want to – I don't</p> <p>5 want to speculate on that.</p> <p>6 MR. MORRIS: Okay. I move to strike.</p> <p>7 And I'm not asking for a legal</p> <p>8 conclusion; I'm asking for your understanding.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Is it your understanding that</p> <p>11 beneficial owners are parties to the CLO</p> <p>12 management agreements between the debtor and the</p> <p>13 CLOs?</p> <p>14 MR. BONDS: Objection to form.</p> <p>15 MR. MORRIS: You can answer.</p> <p>16 A. I think that asks for a legal</p> <p>17 conclusion.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. It does not. I'm asking you as a</p> <p>20 factual matter based on your understanding as the</p> <p>21 portfolio manager of the funds and the president</p> <p>22 of the advisors who made these investments. I'm</p> <p>23 asking you –</p> <p>24 MR. BONDS: Objection, form.</p> <p>25 ///</p>

<p>Page 30</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. – in that capacity.</p> <p>4 In that capacity, do you have any</p> <p>5 understanding that the beneficial owners are</p> <p>6 parties to the CLO management agreements between</p> <p>7 the debtor and the CLOs?</p> <p>8 MR. BONDS: Objection, form.</p> <p>9 A. My understanding is that the</p> <p>10 beneficial owner should always be considered.</p> <p>11 MR. MORRIS: Okay. I move to strike.</p> <p>12 I'm not asking you whether they should be</p> <p>13 considered.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. I'm asking you very specifically</p> <p>16 whether you believe that they are parties to the</p> <p>17 contract.</p> <p>18 MR. BONDS: Objection, form, asked</p> <p>19 and answered.</p> <p>20 A. Yeah, I believe you're asking me for</p> <p>21 a legal conclusion, and I won't give one.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Okay.</p> <p>24 MR. MORRIS: La Asia, can we please</p> <p>25 put up Exhibit 1. Let's share the screen and put</p>	<p>Page 31</p> <p>1 J. DONDERO</p> <p>2 up Exhibit 1.</p> <p>3 (Dondero Deposition Exhibit 1</p> <p>4 marked.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Mr. Dondero, I appreciate that it's</p> <p>7 difficult to do this remotely, and as we</p> <p>8 discussed last time, the one thing that I'm</p> <p>9 certainly not doing today is playing gotcha with</p> <p>10 documents.</p> <p>11 So I'm going to put documents up on</p> <p>12 the screen from time to time, and to the extent</p> <p>13 that you think you need to read more of the</p> <p>14 document in order to have full context, will you</p> <p>15 let me know that?</p> <p>16 A. Sure.</p> <p>17 Q. Okay. This is a letter dated</p> <p>18 October 16th from NexPoint to Mr. Seery.</p> <p>19 Do you see that?</p> <p>20 A. Yep.</p> <p>21 Q. Okay. Are you familiar with this</p> <p>22 document? Have you ever seen it before?</p> <p>23 A. Generally. I'm generally familiar</p> <p>24 with it, but I haven't seen it before.</p> <p>25 Q. Okay. Do you recall when you first</p>
<p>Page 32</p> <p>1 J. DONDERO</p> <p>2 learned that this document was sent? Was it at</p> <p>3 or around the time the document was sent?</p> <p>4 A. It was at or around the time, yes.</p> <p>5 Q. Did you discuss with NexPoint any of</p> <p>6 the substance that is in this letter? And again,</p> <p>7 I'm happy to scroll through it if that would be</p> <p>8 helpful.</p> <p>9 MR. BONDS: Objection, form.</p> <p>10 A. Just generally.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you – I don't want to know about</p> <p>13 any conversations, but did you speak with anybody</p> <p>14 at K&L Gates about this particular letter, just</p> <p>15 yes or no?</p> <p>16 A. My primary conversation was with</p> <p>17 internal counsel. K&L Gates might have been on</p> <p>18 some phone call or two.</p> <p>19 Q. Okay. Whose idea was it to send this</p> <p>20 out?</p> <p>21 MR. BONDS: Objection, form.</p> <p>22 A. Whose idea? I – I don't think</p> <p>23 anybody viewed it as an idea as much as a</p> <p>24 regulatory necessity.</p> <p>25 ///</p>	<p>Page 33</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. And did you authorize the sending of</p> <p>4 this particular letter?</p> <p>5 A. Not specifically.</p> <p>6 Q. Did you generally support the sending</p> <p>7 of the letter?</p> <p>8 A. Yes.</p> <p>9 Q. And you knew the letter was being</p> <p>10 sent; is that fair?</p> <p>11 A. Yes.</p> <p>12 Q. And you didn't object to the sending</p> <p>13 of this letter, right?</p> <p>14 A. I did not object.</p> <p>15 Q. Okay. And since learning that the</p> <p>16 letter was sent, have you ever directed NexPoint</p> <p>17 to withdraw the letter?</p> <p>18 A. No.</p> <p>19 Q. You have the power to do that, don't</p> <p>20 you, sir?</p> <p>21 A. I – I don't believe so. When the</p> <p>22 chief compliance officer believes it's a breach</p> <p>23 of regulatory compliance, the chief compliance</p> <p>24 officer in financial institutions has personal</p> <p>25 liability, and I don't believe that other C-suite</p>

<p>Page 34</p> <p>1 J. DONDERO</p> <p>2 executives can overrule the chief compliance</p> <p>3 officer.</p> <p>4 Q. Who is the chief compliance officer?</p> <p>5 A. Jason Post.</p> <p>6 Q. Did Mr. Post ever say that he would</p> <p>7 not withdraw the letter because of regulatory</p> <p>8 compliance?</p> <p>9 MR. BONDS: Objection, form.</p> <p>10 A. I – not that I know of.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you ever discuss with Mr. Post</p> <p>13 whether or not this letter should be withdrawn?</p> <p>14 A. Again, I didn't believe I had the</p> <p>15 authority to.</p> <p>16 Q. Okay. And he never told you that he</p> <p>17 couldn't; that's just the implicit conclusion</p> <p>18 that you drew because he was the chief compliance</p> <p>19 officer; is that fair?</p> <p>20 A. Implicit conclusion? It's more the</p> <p>21 understanding I have of compliance from having</p> <p>22 lived it the last 20 years.</p> <p>23 MR. MORRIS: Okay. Let's put up</p> <p>24 Exhibit 2, please.</p> <p>25 (Dondero Deposition Exhibit 2</p>	<p>Page 35</p> <p>1 J. DONDERO</p> <p>2 marked.)</p> <p>3 MS. CANTY: Do you see it, John?</p> <p>4 MR. MORRIS: I think we still have</p> <p>5 Exhibit 1.</p> <p>6 MS. CANTY: Okay. Give me a second.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. This is another letter that</p> <p>9 was sent by NexPoint to Mr. Seery, this one dated</p> <p>10 November 24, 2020.</p> <p>11 Do you see that, sir?</p> <p>12 A. Yes.</p> <p>13 Q. And you saw this letter at or around</p> <p>14 the time it was sent, right?</p> <p>15 A. I didn't see the letter specifically,</p> <p>16 but I'm aware of it.</p> <p>17 Q. And you knew it was going to be sent;</p> <p>18 is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. And did you authorize this letter to</p> <p>21 be sent on behalf of the advisors and the funds</p> <p>22 that are listed there?</p> <p>23 MR. BONDS: Objection, form.</p> <p>24 A. Let me give the consistent testimony</p> <p>25 I gave last time. It wasn't an authorization. I</p>
<p>Page 36</p> <p>1 J. DONDERO</p> <p>2 was aware of it. It was, I believe, a continued</p> <p>3 regulatory breach from the standpoint of the --</p> <p>4 of compliance that drove the letter.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. When there's a regulatory breach, is</p> <p>7 there an obligation to alert anybody other than</p> <p>8 the portfolio manager?</p> <p>9 A. I know that's being investigated. I</p> <p>10 don't know the answer regarding a breach like</p> <p>11 this.</p> <p>12 Q. Are you aware of any notification</p> <p>13 that NexPoint made to anybody in the world, other</p> <p>14 than Mr. Seery, with respect to the matters set</p> <p>15 forth in Exhibit 1 and Exhibit 2?</p> <p>16 MR. BONDS: Objection, form.</p> <p>17 A. I don't know, and I'm not in a</p> <p>18 position to comment at this point.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. I'm just asking you if you know</p> <p>21 whether – I'm asking for your knowledge.</p> <p>22 Do you know whether NexPoint ever</p> <p>23 advised anybody, other than Mr. Seery, of the</p> <p>24 allegations that are set forth in Exhibit 1 and</p> <p>25 Exhibit 2?</p>	<p>Page 37</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: Objection, form.</p> <p>3 A. I don't know, nor would I necessarily</p> <p>4 be informed if compliance self-reports this to</p> <p>5 the SEC or other regulatory bodies. But I do not</p> <p>6 know.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. And nobody told you that, right?</p> <p>9 A. I don't know.</p> <p>10 Q. Is there – did you see any written</p> <p>11 analysis or memorandum that was prepared by</p> <p>12 your – by the chief compliance officer with</p> <p>13 respect to the matters set forth in Exhibit 1 and</p> <p>14 Exhibit 2?</p> <p>15 A. I know there was a multipage analysis</p> <p>16 that was done, but I've never seen it.</p> <p>17 Q. And was it written by the chief</p> <p>18 compliance officer or was it written by legal</p> <p>19 staff?</p> <p>20 A. I was told he did it in conjunction</p> <p>21 with external counsel.</p> <p>22 Q. But you've never seen it?</p> <p>23 A. I've never seen it.</p> <p>24 Q. Did you support the sending of this</p> <p>25 letter?</p>

<p>Page 38</p> <p>1 J. DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. Since learning that this letter was</p> <p>4 sent, have you directed NexPoint to withdraw this</p> <p>5 letter?</p> <p>6 A. No, I have not.</p> <p>7 Q. Okay. Around Thanksgiving you</p> <p>8 learned that Mr. Seery was seeking to sell</p> <p>9 certain securities that were owned by certain</p> <p>10 CLOs managed by the debtor, right?</p> <p>11 A. I believe I was informed after the</p> <p>12 fact.</p> <p>13 Q. You were informed that certain sales</p> <p>14 of securities owned by the CLOs were being sold</p> <p>15 at Mr. Seery's direction, right?</p> <p>16 A. Yes.</p> <p>17 MR. BONDS: Objection, form.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay. And at around that time, once</p> <p>20 you learned that, you personally intervened to</p> <p>21 stop those trades, right?</p> <p>22 MR. BONDS: Objection, form.</p> <p>23 A. Yes.</p> <p>24 MR. MORRIS: Can we put up Exhibit 3,</p> <p>25 please.</p>	<p>Page 39</p> <p>1 J. DONDERO</p> <p>2 (Dondero Deposition Exhibit 3</p> <p>3 marked.)</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. This is an e-mail string. We're</p> <p>6 going to start at the bottom and work up, just so</p> <p>7 we can get it in order. And you'll see the</p> <p>8 bottom begins with an e-mail from Hunter Covitz.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Who is Mr. Covitz?</p> <p>12 A. Covitz, Hunter Covitz manages our CLO</p> <p>13 asset – or our CLO assets, primarily.</p> <p>14 Q. Is he a High- – is he a debtor</p> <p>15 employee or is he employed by any other entity?</p> <p>16 A. I believe he's a debtor employee.</p> <p>17 Q. Okay. Do you see there's a reference</p> <p>18 there to gatekeeper@hcmpl.com?</p> <p>19 A. Yes.</p> <p>20 Q. Are you – withdrawn.</p> <p>21 Is that – withdrawn.</p> <p>22 Is it your understanding that that's</p> <p>23 kind of a basket of different e-mail addresses</p> <p>24 that are held together by the Gatekeeper address?</p> <p>25 A. I wouldn't describe it that way, but</p>
<p>Page 40</p> <p>1 J. DONDERO</p> <p>2 it is a bucket of e-mails.</p> <p>3 Q. Okay. And is your e-mail address or</p> <p>4 was your e-mail address included within</p> <p>5 Gatekeeper?</p> <p>6 A. Historically, it was.</p> <p>7 Q. And do you know when that stopped</p> <p>8 being the case?</p> <p>9 A. I do not know.</p> <p>10 Q. Was it after the time that you</p> <p>11 resigned from your position at the debtor?</p> <p>12 A. I do not know.</p> <p>13 Q. Okay. Matt Pearson is below</p> <p>14 Gatekeeper. Do you know who Mr. Pearson is?</p> <p>15 A. He is a – generally an equity trader</p> <p>16 that works for Joe Sowin.</p> <p>17 Q. And are Mr. Pearson and Mr. Sowin</p> <p>18 employees of the debtor?</p> <p>19 A. I don't believe so. I don't believe</p> <p>20 Joe is. I don't know if Matt is. I don't know.</p> <p>21 Q. Okay. But is it fair to say that</p> <p>22 pursuant to this e-mail, Mr. Covitz is giving</p> <p>23 direction to sell certain securities held by the</p> <p>24 CLOs?</p> <p>25 A. Yes.</p>	<p>Page 41</p> <p>1 J. DONDERO</p> <p>2 Q. Can we scroll to the e-mail above</p> <p>3 that, please. And then Mr. Pearson acknowledged</p> <p>4 that e-mail a little bit later in the day, right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And if we can –</p> <p>7 (Interruption by the videographer.)</p> <p>8 MR. MORRIS: It's okay. Let's</p> <p>9 proceed and we'll do the best we can.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Mr. Covitz's e-mail was the – do you</p> <p>12 see the subject matter is Sky Equity?</p> <p>13 A. Yes.</p> <p>14 Q. And do you have an understanding of</p> <p>15 what Sky Equity refers to?</p> <p>16 A. It's a – it's a post-restructured</p> <p>17 equity that the funds have held for years.</p> <p>18 Q. Okay. So if we could scroll up to</p> <p>19 your e-mail that's right there, did you receive a</p> <p>20 copy of Mr. Covitz's original e-mail?</p> <p>21 A. It appears so.</p> <p>22 Q. Okay. And did you give the</p> <p>23 instruction to the recipients of Mr. Hunter</p> <p>24 Covitz's e-mail not to sell the Sky Equity as had</p> <p>25 been instructed by Mr. Seery?</p>

<p>Page 42</p> <p>1 J. DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. And you understood at the time that</p> <p>4 you gave the instruction to the people on this</p> <p>5 e-mail that they were trying to execute trades</p> <p>6 that Mr. Seery had authorized, right?</p> <p>7 MR. BONDS: Objection, form.</p> <p>8 THE WITNESS: Can you repeat the</p> <p>9 question, please.</p> <p>10 MR. MORRIS: Sure.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. At the time that you gave the</p> <p>13 instruction, no, do not, you knew that you were</p> <p>14 stopping trades that had been authorized and</p> <p>15 directed by Mr. Seery, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Did you speak with Mr. Seery before</p> <p>18 instructing the recipients of your e-mail not to</p> <p>19 execute the SKY transactions?</p> <p>20 A. No, I did not.</p> <p>21 Q. Did you take any steps to seek the</p> <p>22 debtor's consent before instructing the</p> <p>23 recipients of this e-mail not to execute the SKY</p> <p>24 transactions?</p> <p>25 A. I'm sorry, please repeat that again.</p>	<p>Page 43</p> <p>1 J. DONDERO</p> <p>2 The – I missed the first part of the sentence.</p> <p>3 Q. No problem.</p> <p>4 Did you take any steps to seek the</p> <p>5 debtor's consent before instructing the</p> <p>6 recipients of your e-mail –</p> <p>7 MR. BONDS: Objection, form.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. – to stop the SKY transactions, to</p> <p>10 stop executing the SKY transactions?</p> <p>11 A. No.</p> <p>12 Q. Thank you.</p> <p>13 Can we scroll up to the response.</p> <p>14 Okay. Stop there.</p> <p>15 Mr. Pearson responded later that</p> <p>16 afternoon. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And in response, he canceled all of</p> <p>19 the SKY and AVYA sales that the debtor had</p> <p>20 directed but which had not yet been executed,</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. And if we can scroll up to the e-mail</p> <p>24 above that, you responded to that as well, didn't</p> <p>25 you?</p>
<p>Page 44</p> <p>1 J. DONDERO</p> <p>2 A. Yep.</p> <p>3 Q. Can you please read your response out</p> <p>4 loud.</p> <p>5 A. HFAM and DAF – or HFAM and DAF has</p> <p>6 instructed Highland in writing not to sell any</p> <p>7 CLO underlying assets. There is potential</p> <p>8 liability. Don't do it again, please.</p> <p>9 Q. All right. The written instructions,</p> <p>10 is that a reference to the first two exhibits</p> <p>11 that we looked at? And if you want to go back</p> <p>12 and check them out, we can, but I'm trying to –</p> <p>13 I want to know what writings you're referring to.</p> <p>14 Withdrawn.</p> <p>15 Are the writings that you're</p> <p>16 referring to the two exhibits that we just looked</p> <p>17 at, Exhibit 1 and Exhibit 2?</p> <p>18 MR. BONDS: Objection, form.</p> <p>19 A. Generally, yes.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Are you –</p> <p>22 A. I don't know if – I don't know if</p> <p>23 there were more than those two, but generally,</p> <p>24 letters of those substances – well, generally,</p> <p>25 letters of those substance – of that substance</p>	<p>Page 45</p> <p>1 J. DONDERO</p> <p>2 is what I'm referring to.</p> <p>3 Q. I appreciate that, Mr. Dondero.</p> <p>4 Do you recall any other writings that</p> <p>5 you were referring to at the time you sent this</p> <p>6 e-mail?</p> <p>7 A. I'm just saying I don't know if there</p> <p>8 were others or if there were other e-mails. I</p> <p>9 don't know. But there were – they would have</p> <p>10 been similar in terms of substance as those two.</p> <p>11 Q. Okay. Do you see the reference there</p> <p>12 in the latter portion of your e-mail, quote,</p> <p>13 there is potential liability, don't do it again?</p> <p>14 A. Yes.</p> <p>15 Q. Who was the intended recipient of</p> <p>16 that message?</p> <p>17 A. At this juncture, it's to Matt</p> <p>18 Pearson, I believe.</p> <p>19 Q. And why would Matt Pearson have</p> <p>20 personal liability – withdrawn.</p> <p>21 Why did you decide to tell</p> <p>22 Mr. Pearson that he had potential liability for</p> <p>23 executing the transactions that Mr. Seery had</p> <p>24 directed?</p> <p>25 MR. BONDS: Objection, form.</p>

<p>Page 46</p> <p>1 J. DONDERO</p> <p>2 A. Yeah, to be clear, it doesn't say</p> <p>3 personal liability. I said potential liability.</p> <p>4 I believe this is – I believe what was done here</p> <p>5 is bona fide typical class action activity that</p> <p>6 we've suffered from historically, when the</p> <p>7 interests of beneficial holders are ignored when</p> <p>8 assets are sold for no business purpose. No</p> <p>9 business purpose. No definable, discernible,</p> <p>10 articulated business purpose.</p> <p>11 There's – I think there's potential</p> <p>12 liability for the manager, the fund complex, you</p> <p>13 know, and sometimes for the individuals involved.</p> <p>14 But my potential liability was a general</p> <p>15 statement.</p> <p>16 THE WITNESS: You know what, guys,</p> <p>17 listen. I've got a couple of calls I've got to</p> <p>18 make that I'm ten minutes late for, so we're</p> <p>19 going to need to take a break for a few minutes</p> <p>20 here, ideally now, or after the next question,</p> <p>21 please.</p> <p>22 MR. MORRIS: I'm happy to take a</p> <p>23 break now. How long are you thinking, though?</p> <p>24 THE WITNESS: Ten or 15 minutes.</p> <p>25 MR. MORRIS: Yeah, that's perfectly</p>	<p>Page 47</p> <p>1 J. DONDERO</p> <p>2 fine, Mr. Dondero. Can you just state on the</p> <p>3 record that you will not talk to any Highland</p> <p>4 employee, including Mr. Ellington or</p> <p>5 Mr. Leventon, you will not communicate with them</p> <p>6 or their counsel in any way with respect to this</p> <p>7 deposition?</p> <p>8 THE WITNESS: Yeah, I promise. I</p> <p>9 haven't – yeah. I will not talk to them. The</p> <p>10 only Highland employee I might talk to is Jerome,</p> <p>11 who's handling the systems for this call, and</p> <p>12 that's it.</p> <p>13 MR. MORRIS: I'm fine with that, but</p> <p>14 really, I'm requesting not only Highland</p> <p>15 employees but not to talk to anybody about the</p> <p>16 testimony today. I'm going to accommodate you</p> <p>17 and –</p> <p>18 THE WITNESS: I won't. Nobody cares</p> <p>19 about this deposition. I won't talk to anybody.</p> <p>20 MR. MORRIS: Okay.</p> <p>21 THE WITNESS: I'll be back in ten or</p> <p>22 15 minutes, okay?</p> <p>23 MR. MORRIS: Okay.</p> <p>24 THE VIDEOGRAPHER: 10:41 a.m. Central</p> <p>25 Standard Time, we're off the record.</p>
<p>Page 48</p> <p>1 J. DONDERO</p> <p>2 (Recess taken, 10:41 a.m. to</p> <p>3 11:16 a.m. CST)</p> <p>4 THE VIDEOGRAPHER: 11:16 a.m., we're</p> <p>5 back on the record.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Mr. Dondero, can you hear me?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Are you aware that the</p> <p>10 deposition taking place today is pursuant to</p> <p>11 Court order?</p> <p>12 A. Yes.</p> <p>13 Q. Did you schedule meetings and</p> <p>14 telephone calls during the day today,</p> <p>15 notwithstanding the Court's order?</p> <p>16 A. I didn't formally schedule anything.</p> <p>17 Q. Okay. So you have nothing scheduled</p> <p>18 for the rest of the day; is that right? You're</p> <p>19 here to answer questions?</p> <p>20 A. Correct.</p> <p>21 MR. MORRIS: Okay. Can we get the</p> <p>22 last exhibit back up on the screen, please.</p> <p>23 Okay. Can we scroll –</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. We were last looking at your e-mail.</p>	<p>Page 49</p> <p>1 J. DONDERO</p> <p>2 Can we see the response above that, please?</p> <p>3 Okay. And that's Mr. Sowin responding.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And Mr. Sowin was following your</p> <p>7 instructions; is that right?</p> <p>8 A. His response is what it is. I'm</p> <p>9 not – what do you mean by following my</p> <p>10 instructions?</p> <p>11 Q. Well, he issued an order – it says,</p> <p>12 quote: Please block all orders from hitting the</p> <p>13 trading desk for the – I assume he meant</p> <p>14 funds – Jim mentioned.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 MR. BONDS: Objection, form.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. And that's exactly what you wanted to</p> <p>20 happen, right?</p> <p>21 A. I'm sorry, could you unhighlight</p> <p>22 that? It's hard for me to read with the</p> <p>23 highlight. Okay. Thank you.</p> <p>24 Yeah, they – I think he tried to</p> <p>25 figure out a way to prevent it from inadvertently</p>

<p>Page 50</p> <p>1 J. DONDERO</p> <p>2 happening.</p> <p>3 Q. Okay. And Mr. Sowin's – the</p> <p>4 substance of Mr. Sowin's e-mail is consistent</p> <p>5 with your intent to prevent any further trades</p> <p>6 from the CLOs, right?</p> <p>7 MR. BONDS: Objection, form.</p> <p>8 A. My intent was to prevent trades that</p> <p>9 weren't in the best interests of investors, that</p> <p>10 investors – the beneficial holders had</p> <p>11 articulated they didn't want sold while these</p> <p>12 funds were in transition, and that the – there</p> <p>13 was no business purpose or benefit to the debtor</p> <p>14 to sell these assets.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. That –</p> <p>17 A. So that's – that was the rationale I</p> <p>18 was trying to capture.</p> <p>19 THE WITNESS: Hold on for me one</p> <p>20 second. Jerome just stepped in. What does the</p> <p>21 systems guy want Jerome to do?</p> <p>22 MR. MORRIS: Figure out a way to turn</p> <p>23 the lights on.</p> <p>24 (Technical comments off the</p> <p>25 stenographic record.)</p>	<p>Page 51</p> <p>1 J. DONDERO</p> <p>2 MR. MORRIS: Let's go forward.</p> <p>3 THE WITNESS: So we're okay with</p> <p>4 Jerome? That's it for now?</p> <p>5 MR. MORRIS: Yeah.</p> <p>6 THE WITNESS: All right. Thank you.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. You didn't correct anything that</p> <p>9 Mr. Sowin did – said in this e-mail, did you?</p> <p>10 A. No.</p> <p>11 Q. You didn't tell –</p> <p>12 MR. BONDS: Can you repeat the</p> <p>13 question? I didn't understand it.</p> <p>14 MR. MORRIS: That's okay.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Mr. Dondero, you didn't correct</p> <p>17 anything that Mr. Sowin wrote in this e-mail, did</p> <p>18 you?</p> <p>19 A. No.</p> <p>20 Q. You didn't tell Mr. Sowin that he</p> <p>21 misunderstood your intent, did you?</p> <p>22 A. I don't believe so.</p> <p>23 Q. And you didn't give any explanation</p> <p>24 to him as to why you did not want to sell any CLO</p> <p>25 underlying assets except for what you wrote in</p>
<p>Page 52</p> <p>1 J. DONDERO</p> <p>2 that e-mail below, right?</p> <p>3 MR. BONDS: Objection, form.</p> <p>4 A. I – I believe I – well, the e-mails</p> <p>5 stand on their own. I think the reasons below</p> <p>6 are sufficient. I think I had a conversation</p> <p>7 with Joe besides that, and there was an</p> <p>8 unawareness on the trading desk and with Hunter</p> <p>9 that the interest of investors had been expressed</p> <p>10 and ignored by Seery, you know, so – they</p> <p>11 weren't aware of that. They thought that was</p> <p>12 unusual and inappropriate.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. In your role as portfolio manager, is</p> <p>15 it – do you believe it's your responsibility to</p> <p>16 always defer to the desires of your investors?</p> <p>17 Do you cede – do you cede – withdrawn.</p> <p>18 Do you cede responsibility and your</p> <p>19 business judgment for making transactions to your</p> <p>20 investors?</p> <p>21 MR. BONDS: Objection, form.</p> <p>22 A. In this case, it would be</p> <p>23 appropriate. In general, it would depend.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Okay. A few days later, you learned</p>	<p>Page 53</p> <p>1 J. DONDERO</p> <p>2 that Mr. Seery was trying a work-around to</p> <p>3 effectuate the trades anyway, right?</p> <p>4 A. Yes.</p> <p>5 Q. And you wrote to Thomas Surgent to</p> <p>6 let him know that you were aware that Seery was</p> <p>7 trying a work-around to effectuate the trades,</p> <p>8 right?</p> <p>9 A. I believe there was such an e-mail.</p> <p>10 Q. Okay. Can you just scroll up and see</p> <p>11 that e-mail, please. All right. Stop right</p> <p>12 there.</p> <p>13 Who is Mr. Surgent?</p> <p>14 A. He's the chief compliance officer of</p> <p>15 Highland Capital.</p> <p>16 Q. The debtor?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And how long has he held that</p> <p>19 position to the best of your recollection?</p> <p>20 A. A long time. More than five years.</p> <p>21 Q. What does it mean to – when you</p> <p>22 wrote that Mr. Seery was, quote, working on a</p> <p>23 work-around to trade these securities? What does</p> <p>24 that mean?</p> <p>25 A. As a noninvestment professional and</p>

<p>Page 54</p> <p>1 J. DONDERO</p> <p>2 as a nontrader and as a nonportfolio manager, he</p> <p>3 set up an account for himself, I believe,</p> <p>4 directly with Jefferies to trade the securities</p> <p>5 in the CLOs.</p> <p>6 Q. How did you learn that?</p> <p>7 A. I think we still get trade reports</p> <p>8 from Jefferies, or Jefferies – the Jefferies</p> <p>9 trades get reported back into the system and have</p> <p>10 to be input by Joe, and so Joe sees the trades</p> <p>11 come back from Jefferies at the end of the day.</p> <p>12 Q. And Joe is Joe Sowin?</p> <p>13 A. Yes.</p> <p>14 Q. And he works for you; is that right?</p> <p>15 MR. BONDS: Objection, form.</p> <p>16 MR. MORRIS: Withdrawn.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. He works for one of the advisors; is</p> <p>19 that right?</p> <p>20 A. I believe he works for HFAM, but I'm</p> <p>21 not a hundred percent certain.</p> <p>22 Q. And the work-around was – is that</p> <p>23 another way of saying that Mr. Seery tried to do</p> <p>24 the trades that he thought were appropriate</p> <p>25 without your interference?</p>	<p>Page 55</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: Objection, form.</p> <p>3 A. I'm not going to agree with that</p> <p>4 speculation. If you want me to speculate, I</p> <p>5 think Seery had no business purpose and he was</p> <p>6 doing it to tweak myself and everybody else.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Did he tell you that?</p> <p>9 A. No. I'm speculating.</p> <p>10 Q. Okay. Do you have any idea why he</p> <p>11 made the trades?</p> <p>12 A. He – he had no –</p> <p>13 Q. Withdrawn. I'm sorry.</p> <p>14 Do you have any idea why he wanted to</p> <p>15 make the trades?</p> <p>16 A. I didn't speak to him directly.</p> <p>17 Q. Okay.</p> <p>18 A. Indirectly – I didn't speak to him.</p> <p>19 I didn't speak to him directly. It was –</p> <p>20 Q. Do you have any personal knowledge as</p> <p>21 you sit here right now as to why Mr. Seery wanted</p> <p>22 to effectuate the trades that you were blocking?</p> <p>23 MR. BONDS: Objection, form.</p> <p>24 A. I've thought about it at length. I</p> <p>25 can't come up with a business purpose that would</p>
<p>Page 56</p> <p>1 J. DONDERO</p> <p>2 supersede an account that's in transition and the</p> <p>3 beneficial owners have made it clear that the</p> <p>4 manager's not in compliance, they're moving the</p> <p>5 accounts, and knowing the individual assets that</p> <p>6 were sold, I can't – I couldn't think of a</p> <p>7 business purpose that Seery would be operating</p> <p>8 under.</p> <p>9 MR. MORRIS: Okay. I move to strike.</p> <p>10 I'm not asking you for what you think. I'm</p> <p>11 asking you for facts.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Do you have any knowledge of any</p> <p>14 facts as to the business justification or</p> <p>15 rationale for why Mr. Seery wanted to make these</p> <p>16 trades?</p> <p>17 MR. BONDS: Objection, form.</p> <p>18 A. No, I don't believe there are any.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. And you never asked him; is that</p> <p>21 right?</p> <p>22 A. Correct.</p> <p>23 Q. And you never instructed anybody on</p> <p>24 your behalf or on behalf of the advisors or on</p> <p>25 behalf of the funds to ask Mr. Seery why he</p>	<p>Page 57</p> <p>1 J. DONDERO</p> <p>2 wanted to make these trades, right?</p> <p>3 A. That's not correct.</p> <p>4 Q. Nobody ever told you that they'd had</p> <p>5 a conversation with Mr. Seery in which</p> <p>6 Mr. Seery – (audio malfunction) –</p> <p>7 (Clarification requested by the</p> <p>8 stenographer.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Did anybody ever tell you that they</p> <p>11 had spoken with Mr. Seery and Mr. Seery had</p> <p>12 provided an explanation, a business rationale for</p> <p>13 the transactions that he wanted to effectuate?</p> <p>14 MR. BONDS: Objection, form.</p> <p>15 A. Yes. Yes.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Who was that?</p> <p>18 A. Joe Sowin.</p> <p>19 Q. When did he tell you about this</p> <p>20 conversation?</p> <p>21 A. It was at or about this time in...</p> <p>22 Q. And what did Mr. Sowin tell you?</p> <p>23 A. Seery told him it was for risk</p> <p>24 minimization or risk reduction.</p> <p>25 Q. Did he tell him anything else?</p>

<p style="text-align: right;">Page 58</p> <p>1 J. DONDERO</p> <p>2 A. No. He said risk reduction was why</p> <p>3 he was selling the securities.</p> <p>4 Q. That's the only rationale that</p> <p>5 Mr. Seery gave to Mr. Sowin; is that your</p> <p>6 testimony?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Did Mr. Sowin tell you that he</p> <p>9 asked any questions of Mr. Seery?</p> <p>10 A. He asked him why he was selling them.</p> <p>11 Q. And you've given me the entirety of</p> <p>12 the answer as conveyed by Mr. Sowin to you; is</p> <p>13 that right?</p> <p>14 A. Yes.</p> <p>15 Q. Is Mr. Sowin's conversation with</p> <p>16 Mr. Seery about the justification for these</p> <p>17 trades reflected in any document or any e-mail</p> <p>18 anywhere that you can recall?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Did K&L Gates explain their</p> <p>21 understanding of the business rationale of these</p> <p>22 trades in any of the letters that they sent on</p> <p>23 behalf of the funds or any of the advisors?</p> <p>24 A. Not that I'm aware of. I'm not</p> <p>25 aware.</p>	<p style="text-align: right;">Page 59</p> <p>1 J. DONDERO</p> <p>2 Q. Do you know Dustin Norris?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know that he testified in</p> <p>5 December in connection with this bankruptcy</p> <p>6 matter?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever tell Dustin Norris about</p> <p>9 the conversation Mr. Sowin had with Mr. Seery</p> <p>10 that you've described here?</p> <p>11 A. I believe he was aware of it.</p> <p>12 Q. Do you know – did you talk to him in</p> <p>13 advance of his testimony?</p> <p>14 A. I talk to Dustin most every day.</p> <p>15 Q. And did you tell Dustin that he</p> <p>16 should make sure to alert the Court about this</p> <p>17 conversation with Mr. Sowin and Mr. Seery?</p> <p>18 A. No.</p> <p>19 Q. Did you think it was important that</p> <p>20 the Court know Mr. Seery's business rationale?</p> <p>21 A. I thought it was a nonsensical answer</p> <p>22 on Seery's part. I didn't have an opinion on</p> <p>23 whether or not the Court should know.</p> <p>24 Q. Now, you – at the time, you were</p> <p>25 speaking to Mr. Seery directly; isn't that right?</p>
<p style="text-align: right;">Page 60</p> <p>1 J. DONDERO</p> <p>2 A. Rarely. I didn't – since the</p> <p>3 injunction or since – rarely. I can't remember</p> <p>4 the last time I've spoken to him. Scott</p> <p>5 Ellington has been the appropriate go-between as</p> <p>6 far as I understand it.</p> <p>7 Q. Okay. Was there anything that</p> <p>8 prevented you in November 2020 from picking up</p> <p>9 the phone to talk to Mr. Seery about his desire</p> <p>10 to effectuate these transactions?</p> <p>11 A. No. The last time I – yeah, I'm</p> <p>12 remembering, the last time I talked to Seery was</p> <p>13 the day after Thanksgiving.</p> <p>14 Q. Okay. Is there anything that you're</p> <p>15 aware of that prevented you from picking up the</p> <p>16 phone and asking Mr. Seery for his business</p> <p>17 justification for these trades prior to</p> <p>18 December 10, 2020?</p> <p>19 MR. BONDS: Objection, form.</p> <p>20 A. No. I expressed my disapproval via</p> <p>21 e-mail.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Okay. Why did you decide to write to</p> <p>24 Mr. Surgent on November 27th?</p> <p>25 A. I wasn't sure he was aware of Seery's</p>	<p style="text-align: right;">Page 61</p> <p>1 J. DONDERO</p> <p>2 work-around, and I know Thomas has an acute</p> <p>3 awareness of his personal liability for</p> <p>4 regulatory breaches or doing things that aren't</p> <p>5 in the best interests of investors, and I don't</p> <p>6 believe he has the extra insurance and</p> <p>7 indemnities that Seery has.</p> <p>8 Q. If he was acutely aware of it, why</p> <p>9 did you feel the need to remind him of that in</p> <p>10 your e-mail to him?</p> <p>11 A. Because I don't think he was aware</p> <p>12 that Seery was doing a work-around on behalf of</p> <p>13 the debtor that he was compliance officer of. I</p> <p>14 wasn't convinced he was aware, so I included him</p> <p>15 on the e-mail.</p> <p>16 Q. Did you intend to suggest that by</p> <p>17 following Mr. Seery's orders to execute the</p> <p>18 trades, that Mr. Surgent faced personal</p> <p>19 liability?</p> <p>20 A. That's the way it works.</p> <p>21 Q. Okay. And you wanted him to know</p> <p>22 that, right?</p> <p>23 A. I wanted him to know that Seery was</p> <p>24 doing inappropriate trades and doing</p> <p>25 inappropriate work-around, in my opinion. I</p>

<p>Page 62</p> <p>1 J. DONDERO</p> <p>2 didn't think Thomas was aware. I thought Seery</p> <p>3 was operating independently.</p> <p>4 Thomas might have been aware, but I</p> <p>5 didn't think so. I don't talk to – I haven't</p> <p>6 talked to Thomas in I don't know when, so I</p> <p>7 thought it was important for him to know.</p> <p>8 Q. Okay. You have communicated with</p> <p>9 Mr. Seery from time to time via text message,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 MR. MORRIS: Can we put up Exhibit 4,</p> <p>13 please.</p> <p>14 (Dondero Deposition Exhibit 4</p> <p>15 marked.)</p> <p>16 MR. MORRIS: And if we can scroll</p> <p>17 down a little bit. Okay.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. This is a text that you sent at the</p> <p>20 bottom there at 5:26 p.m. to Mr. Seery; is that</p> <p>21 right?</p> <p>22 A. Yes.</p> <p>23 Q. Can you just read that text, that</p> <p>24 5:26 out loud?</p> <p>25 A. Be careful what you do, last warning.</p>	<p>Page 63</p> <p>1 J. DONDERO</p> <p>2 Q. Why did you write that?</p> <p>3 A. Because all the reasons we just went</p> <p>4 over. And I think he's violating the Advisers</p> <p>5 Act. He's putting the funds and the debtor at</p> <p>6 risk, in jeopardy of class action lawsuits, and</p> <p>7 he's going against the interests of investors</p> <p>8 that are in transition, and expressed a desire to</p> <p>9 not have their assets sold, especially when</p> <p>10 there's no business reason.</p> <p>11 And for all the reasons articulated</p> <p>12 below – I mean, for all the reasons we just went</p> <p>13 over, and there are a few others I probably</p> <p>14 haven't remembered off the top of my head, but</p> <p>15 it's – I think it's – I think his activities</p> <p>16 regarding the CLOs is incredibly inappropriate,</p> <p>17 unfounded and malicious, and he hadn't sold that</p> <p>18 many securities at that point in time, somewhat</p> <p>19 de minimis amounts, but it was a warning to tell</p> <p>20 him to stop; otherwise, rightfully, the</p> <p>21 beneficial owners would take more significant</p> <p>22 actions, which I think they should and they will.</p> <p>23 Q. What significant action are the</p> <p>24 beneficial owners going to take?</p> <p>25 A. I don't know. But there's a lot more</p>
<p>Page 64</p> <p>1 J. DONDERO</p> <p>2 things that they can push on, like you were</p> <p>3 suggesting earlier, asking earlier in terms of</p> <p>4 self-reporting to the SEC.</p> <p>5 Q. But you haven't done that yet, to the</p> <p>6 best of your knowledge; is that right?</p> <p>7 A. I'm not aware.</p> <p>8 Q. You wrote there that it's the last</p> <p>9 warning.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. How many other warnings have you</p> <p>13 given Mr. Seery?</p> <p>14 A. All the e-mails we just went over.</p> <p>15 Q. Anything else?</p> <p>16 A. No.</p> <p>17 Q. Okay. You got document requests in</p> <p>18 this – in connection with this matter; isn't</p> <p>19 that right?</p> <p>20 A. Yes.</p> <p>21 MR. MORRIS: Okay. Can we put up</p> <p>22 Exhibit 5, please.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. You know, before we look at that,</p> <p>25 earlier this morning you mentioned – you made a</p>	<p>Page 65</p> <p>1 J. DONDERO</p> <p>2 reference to internal counsel.</p> <p>3 Do you recall that?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Who were you referring to?</p> <p>6 A. D.C. Sauter.</p> <p>7 Q. And D.C. Sauter is internal counsel</p> <p>8 for who?</p> <p>9 A. I'm sorry, was there a question</p> <p>10 there?</p> <p>11 Q. Yes. I apologize.</p> <p>12 D.C. Sauter is internal counsel for</p> <p>13 who, for which entity?</p> <p>14 A. NexPoint.</p> <p>15 Q. Okay. Were you referring to anybody</p> <p>16 else?</p> <p>17 A. No.</p> <p>18 Q. Okay. You mentioned Scott Ellington</p> <p>19 earlier, right?</p> <p>20 A. Yes.</p> <p>21 Q. And who is Mr. Ellington?</p> <p>22 A. He's general counsel at Highland</p> <p>23 historically. I think his role has been</p> <p>24 redefined as settlement counsel, that's how it</p> <p>25 was described to me, I guess, six, nine months</p>

<p>Page 66</p> <p>1 J. DONDERO</p> <p>2 ago, six months ago.</p> <p>3 Q. Mr. Ellington is employed by the</p> <p>4 debtor, right?</p> <p>5 A. Yes.</p> <p>6 Q. And do you know when he first became</p> <p>7 employed by the debtor?</p> <p>8 A. Over a decade ago.</p> <p>9 Q. Do you know whether Mr. Ellington has</p> <p>10 any employer other than the debtor?</p> <p>11 A. I don't know.</p> <p>12 Q. He never told you that he had an</p> <p>13 employer other than the debtor, did he?</p> <p>14 A. I don't know.</p> <p>15 Q. You know if he told you or not,</p> <p>16 right? Did he ever tell you that?</p> <p>17 A. He never told me he did, no.</p> <p>18 Q. And you have no facts or reason to</p> <p>19 believe, as you sit here right now, that the</p> <p>20 debtor is – withdrawn.</p> <p>21 You have no facts or reason to</p> <p>22 believe right now that Mr. Ellington has any</p> <p>23 employer other than the debtor, correct?</p> <p>24 MR. BONDS: Objection, form.</p> <p>25 A. I'd like to stick with: I don't</p>	<p>Page 67</p> <p>1 J. DONDERO</p> <p>2 know.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. You have no reason to believe that;</p> <p>5 is that fair?</p> <p>6 A. Correct, I don't know.</p> <p>7 Q. Okay. He's not – Mr. Ellington is</p> <p>8 not your personal lawyer, right?</p> <p>9 A. No.</p> <p>10 Q. He's never represented Jim Dondero</p> <p>11 personally; is that right?</p> <p>12 A. No.</p> <p>13 MR. MORRIS: Let's look at the</p> <p>14 document request, please, Exhibit 5.</p> <p>15 (Dondero Deposition Exhibit 5</p> <p>16 marked.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. If we could go – let me just ask you</p> <p>19 generally, Mr. Dondero.</p> <p>20 Have you ever seen this document</p> <p>21 before?</p> <p>22 A. No.</p> <p>23 Q. Are you aware that the debtor served</p> <p>24 document requests on the Bonds Ellis firm for</p> <p>25 documents in connection with its motion for a</p>
<p>Page 68</p> <p>1 J. DONDERO</p> <p>2 preliminary injunction?</p> <p>3 A. Yes.</p> <p>4 Q. How did you learn that?</p> <p>5 A. I heard about it from my lawyers.</p> <p>6 Q. Okay. Did you oversee the search for</p> <p>7 responsive documents?</p> <p>8 A. Response – I know we were responsive</p> <p>9 and compliant, but I delegated it to my</p> <p>10 assistants and the employees at Bonds Ellis.</p> <p>11 Q. Which assistants did you delegate</p> <p>12 this to?</p> <p>13 A. Tara Loiben. I think primarily Tara</p> <p>14 Loiben.</p> <p>15 Q. And who is Ms. Loiben?</p> <p>16 A. She's my assistant.</p> <p>17 Q. And who is she –</p> <p>18 A. I'm sorry?</p> <p>19 Q. Who is she employed by?</p> <p>20 A. I – I don't know for sure. I think</p> <p>21 Highland, but I don't know. I don't want to</p> <p>22 speculate.</p> <p>23 Q. What instructions – (audio</p> <p>24 malfunction) –</p> <p>25 (Clarification requested by the</p>	<p>Page 69</p> <p>1 J. DONDERO</p> <p>2 stenographer.)</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. What instructions did you give her in</p> <p>5 order to search for documents?</p> <p>6 A. I didn't – I didn't give her any.</p> <p>7 She worked with that and she had – she has full</p> <p>8 access to my e-mail, and I gave her my phone for</p> <p>9 the better part of a couple days in the office.</p> <p>10 Q. You – until the end of 2020, you had</p> <p>11 an e-mail address with an HCMLP or a Highland</p> <p>12 e-mail address, right?</p> <p>13 A. Yes.</p> <p>14 Q. Have you stopped – has that e-mail</p> <p>15 address ceased to be in use?</p> <p>16 A. I've switched to an e-mail at the</p> <p>17 bank as of – whatever it was, last week or...</p> <p>18 Q. In the year 2020, did you use any</p> <p>19 e-mail address other than the Highland e-mail</p> <p>20 address?</p> <p>21 A. No.</p> <p>22 Q. You don't have a Gmail address or any</p> <p>23 other personal e-mail address?</p> <p>24 A. I have an old Gmail address, but it's</p> <p>25 dormant. I haven't logged on to it in years.</p>

<p>Page 70</p> <p>1 J. DONDERO</p> <p>2 Q. Okay. And you understood that the</p> <p>3 debtor's document request called for the</p> <p>4 production of all text messages that were</p> <p>5 responsive to the requests, right?</p> <p>6 A. Yes.</p> <p>7 Q. Can we just scroll down to the</p> <p>8 requests themselves? Right there.</p> <p>9 Do you see Request No. 3 is for all</p> <p>10 communications between you and any person</p> <p>11 employed by the debtor?</p> <p>12 A. Yes.</p> <p>13 Q. And did you understand that the</p> <p>14 request was limited to the time period of, I</p> <p>15 think, December 10th, 2020 to the end of the</p> <p>16 month?</p> <p>17 A. I didn't read the details of this. I</p> <p>18 didn't get into it. I didn't do the document</p> <p>19 production that I believe was completed and</p> <p>20 responsive. I delegated that.</p> <p>21 Q. Did you review the documents before</p> <p>22 they were produced? Do you know what was</p> <p>23 produced? Withdrawn. Two different questions.</p> <p>24 Did you review the documents for</p> <p>25 completeness before your lawyers delivered them</p>	<p>Page 71</p> <p>1 J. DONDERO</p> <p>2 to my firm?</p> <p>3 A. Only in the most general – when</p> <p>4 she'd print out a stack of them, I'd just thumb</p> <p>5 through the stack of them, and that was it. But</p> <p>6 other than that, no.</p> <p>7 Q. Did you do anything to satisfy</p> <p>8 yourself that you had produced all responsive</p> <p>9 documents?</p> <p>10 A. I trust Tara's work ethic and</p> <p>11 capabilities, and I trust the lawyers at Bonds</p> <p>12 Ellis, so I didn't – I didn't intervene or</p> <p>13 supersede or supervise.</p> <p>14 Q. So you didn't do anything to make</p> <p>15 sure – you didn't do anything personally –</p> <p>16 withdrawn.</p> <p>17 You didn't take any steps personally</p> <p>18 to make sure that all responsive documents had</p> <p>19 been produced, right?</p> <p>20 MR. BONDS: Objection, form.</p> <p>21 A. I wasn't involved personally, but I</p> <p>22 do believe it was responsive and complete.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Until early December, you had a phone</p> <p>25 that was bought and paid for by the debtor,</p>
<p>Page 72</p> <p>1 J. DONDERO</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. What happened to that phone?</p> <p>5 A. It was disposed of as part of getting</p> <p>6 a replacement phone in anticipation of</p> <p>7 potentially a transition.</p> <p>8 Q. Who decided to dispose of it?</p> <p>9 A. That's historically what we've done</p> <p>10 with all of our historic phones, when we've</p> <p>11 gotten new phones. I've gotten a new phone, I</p> <p>12 guess, every four or five years, and the old ones</p> <p>13 have always been destroyed.</p> <p>14 Q. Who decided to destroy this –</p> <p>15 withdrawn.</p> <p>16 When you say it was disposed of, what</p> <p>17 does that mean?</p> <p>18 A. As far as I know, it was disposed of</p> <p>19 in the garbage, but I don't know if it was</p> <p>20 recycled or whatever.</p> <p>21 Q. And who decided to throw it in the</p> <p>22 garbage?</p> <p>23 A. We've always – we've always done</p> <p>24 that when we've gotten new phones, versus trading</p> <p>25 them in, for the senior executives.</p>	<p>Page 73</p> <p>1 J. DONDERO</p> <p>2 Q. I appreciate that, but I'm just</p> <p>3 talking about the very specific phone that the</p> <p>4 debtor bought and paid for for your benefit. Who</p> <p>5 made the decision to dispose and throw that phone</p> <p>6 away?</p> <p>7 MR. BONDS: Objection, form.</p> <p>8 A. I – like I said, I understood it to</p> <p>9 be our standard process and protocol. I don't</p> <p>10 know. I can't label anybody with the decision.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Well, who threw it away?</p> <p>13 A. I don't know.</p> <p>14 Q. You don't know if you threw the phone</p> <p>15 away?</p> <p>16 A. No, I – I don't know. No, I don't</p> <p>17 remember throwing it away, but I don't know who</p> <p>18 did.</p> <p>19 Q. Did you have conversations with</p> <p>20 anybody about the decision to throw away the</p> <p>21 phone?</p> <p>22 A. Like I said, it wasn't a decision or</p> <p>23 a new decision. It's been the process, as far as</p> <p>24 I understand it, every time we've upgraded phones</p> <p>25 over the last 30 years.</p>

<p>Page 74</p> <p>1 J. DONDERO</p> <p>2 Q. You just throw it in the garbage?</p> <p>3 You don't try to get a credit for it by returning</p> <p>4 it?</p> <p>5 A. No.</p> <p>6 Q. Okay. Did you ever speak with</p> <p>7 Mr. Ellington about your phone that was bought</p> <p>8 and paid for by the debtor?</p> <p>9 A. I think Ellington's phone and my</p> <p>10 phone and I think – I think right around the</p> <p>11 same time, in anticipation, in case there was a</p> <p>12 transition or in case there was a liquidation</p> <p>13 plan, it was time to move the phone ownership</p> <p>14 away from the estate. The estate wasn't going to</p> <p>15 pay for it anymore anyway in another couple of</p> <p>16 weeks so, I –</p> <p>17 Q. Were you aware –</p> <p>18 A. I'm sorry, what's your question?</p> <p>19 Q. Are you aware that the UCC had asked</p> <p>20 for your text messages before the time that you</p> <p>21 disposed of your phone?</p> <p>22 A. No.</p> <p>23 Q. Nobody ever told you that the UCC</p> <p>24 wanted your phone?</p> <p>25 A. No.</p>	<p>Page 75</p> <p>1 J. DONDERO</p> <p>2 Q. When exactly did you dispose of your</p> <p>3 phone?</p> <p>4 A. On or about when I got my new phone.</p> <p>5 Q. Who at the debtor did you tell that</p> <p>6 you disposed of your phone?</p> <p>7 A. I don't – I don't remember who. Was</p> <p>8 it Jason Rothstein was involved in getting my new</p> <p>9 phone and knew that I was disposing of my old</p> <p>10 phone? I don't know who else knew. But again,</p> <p>11 it was standard procedure.</p> <p>12 Q. Did it ever occur to you to get the</p> <p>13 debtor's consent before doing this?</p> <p>14 MR. BONDS: Objection, form.</p> <p>15 A. No.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Did you have the phone number</p> <p>18 transferred to your personal account?</p> <p>19 A. Yes.</p> <p>20 Q. Did you ever ask the debtor for its</p> <p>21 permission to do that?</p> <p>22 A. No.</p> <p>23 Q. Did you ever give the debtor notice</p> <p>24 that you were doing that?</p> <p>25 A. I didn't believe it was necessary or</p>
<p>Page 76</p> <p>1 J. DONDERO</p> <p>2 appropriate.</p> <p>3 Q. So you wanted it to be a secret?</p> <p>4 MR. BONDS: Objection, form.</p> <p>5 A. No. No, I wouldn't describe it as a</p> <p>6 secret. I would say I didn't think it was</p> <p>7 necessary or appropriate.</p> <p>8 Every executive that's ever left</p> <p>9 Highland has always kept their phone number,</p> <p>10 period. Highland's never said, no, we're keeping</p> <p>11 the phone number, ever, out of the two or 300</p> <p>12 people that have come through Highland. And I</p> <p>13 don't believe most businesses try and retain the</p> <p>14 phone number of employees when they leave. It's</p> <p>15 ludicrous on its surface.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Okay. So let me just make sure that</p> <p>18 I understand this.</p> <p>19 You threw the phone – withdrawn.</p> <p>20 Somebody threw the phone that the</p> <p>21 debtor bought and paid for in the garbage without</p> <p>22 the debtor's knowledge or consent; is that right?</p> <p>23 MR. BONDS: Objection, form.</p> <p>24 A. I'd just repeat my testimony, that</p> <p>25 it's always been our process to destroy old</p>	<p>Page 77</p> <p>1 J. DONDERO</p> <p>2 phones when we get new phones.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. You were no longer an employee of the</p> <p>5 debtor at the time, correct?</p> <p>6 A. At the time? I believe I was an</p> <p>7 employee of the debtor since January.</p> <p>8 Q. Well, you stayed on as an unpaid</p> <p>9 employee until mid October; isn't that right?</p> <p>10 A. Right, but I – but I don't even</p> <p>11 think my phone was paid for by the debtor. I</p> <p>12 think my phone was paid for by shared services by</p> <p>13 NexPoint. I – I don't know what you're – I</p> <p>14 don't know what you're getting at or what</p> <p>15 you're – you're asking me.</p> <p>16 Q. It's not complicated.</p> <p>17 Did you tell the debtor that you</p> <p>18 threw away your phone at any time until this</p> <p>19 deposition?</p> <p>20 A. Did I tell the debtor? Like I said,</p> <p>21 I didn't think it was the debtor's phone. No, I</p> <p>22 did not tell the debtor or get permission. No, I</p> <p>23 did not.</p> <p>24 Q. And did you tell the debtor that you</p> <p>25 were changing the phone number?</p>

<p>Page 78</p> <p>1 J. DONDERO</p> <p>2 A. No.</p> <p>3 Q. And did Mr. Ellington help you change</p> <p>4 the phone number?</p> <p>5 MR. BONDS: Objection, form.</p> <p>6 A. I didn't change the phone number.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Withdrawn.</p> <p>9 Did Mr. Ellington help you have the</p> <p>10 phone number transitioned to your personal</p> <p>11 account?</p> <p>12 MR. BONDS: Objection, form.</p> <p>13 A. No. No. It was Jason – Jason</p> <p>14 Rothstein handles the technology stuff and the</p> <p>15 phone stuff.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Did Mr. Ellington also change his</p> <p>18 phone number to his own personal account?</p> <p>19 A. My understanding was there was</p> <p>20 numerous senior executives that changed their</p> <p>21 phone in anticipation of being terminated by the</p> <p>22 debtor shortly.</p> <p>23 Q. Who else did it?</p> <p>24 A. I don't know. I thought it was – I</p> <p>25 didn't think it was just Ellington and I. I</p>	<p>Page 79</p> <p>1 J. DONDERO</p> <p>2 thought it was a bunch of senior execs. But –</p> <p>3 Q. What's the basis –</p> <p>4 A. – who cares? Who cares? I didn't</p> <p>5 care. I don't know. I mean –</p> <p>6 Q. I don't care if you care or not. I'm</p> <p>7 asking you questions.</p> <p>8 What is the basis for your statement</p> <p>9 that other people besides you and Mr. Ellington</p> <p>10 changed the phone numbers?</p> <p>11 MR. BONDS: Objection, form.</p> <p>12 A. That was my understanding. That was</p> <p>13 my understanding. But I don't – I don't recall</p> <p>14 specifics. I didn't pay attention.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. What is the basis for the</p> <p>17 understanding? Did somebody tell you that?</p> <p>18 MR. BONDS: Can you repeat the</p> <p>19 question?</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. What is the basis for your</p> <p>22 understanding? Did somebody tell you that</p> <p>23 employees of Highland other than Mr. Ellington</p> <p>24 had changed the phone numbers?</p> <p>25 A. Yes. My understanding was everybody</p>
<p>Page 80</p> <p>1 J. DONDERO</p> <p>2 had to move their phones in the next 30 days or</p> <p>3 next 25 days, based on Seery's termination</p> <p>4 notice.</p> <p>5 Q. Did Jim Seery – withdrawn. I'm</p> <p>6 perfectly fine.</p> <p>7 MR. MORRIS: Can we put up Exhibit 6,</p> <p>8 please.</p> <p>9 (Dondero Deposition Exhibit 6</p> <p>10 marked.)</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. That's Jason Rothstein.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. He didn't throw the phone in the</p> <p>16 garbage, did he?</p> <p>17 A. I don't know.</p> <p>18 Q. Well, according to the text that he</p> <p>19 sent you on December 10th, he left your own –</p> <p>20 old phone in the drawer of Tara's desk.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So he didn't think that it was his</p> <p>24 responsibility as of December 10th to throw it in</p> <p>25 the garbage, did he?</p>	<p>Page 81</p> <p>1 J. DONDERO</p> <p>2 A. I don't know.</p> <p>3 Q. He left it in Tara's desk, didn't he?</p> <p>4 A. On December 10th. But I don't know</p> <p>5 what he did on December 11th.</p> <p>6 Q. Did you tell him to do anything?</p> <p>7 A. I don't – all I know is the phone's</p> <p>8 been disposed of. That's all I know.</p> <p>9 Q. Okay. Did you tell Mr. Rothstein to</p> <p>10 take the phone out of Tara's desk and throw it in</p> <p>11 the garbage?</p> <p>12 A. I did not.</p> <p>13 Q. Did you tell Tara to take the phone</p> <p>14 out of her desk and throw it in the garbage?</p> <p>15 A. I did not.</p> <p>16 MR. MORRIS: Okay. Can we put up</p> <p>17 Exhibit 7, please.</p> <p>18 (Dondero Deposition Exhibit 7</p> <p>19 marked.)</p> <p>20 MR. MORRIS: Can we just scroll down</p> <p>21 a little bit.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Is this a text message from you to</p> <p>24 Tara?</p> <p>25 A. Yep.</p>

<p>Page 82</p> <p>1 J. DONDERO</p> <p>2 Q. If we could scroll up just a little</p> <p>3 bit so we can see the date.</p> <p>4 Well, it doesn't have a date, but do</p> <p>5 you recall when you asked Tara to come in to</p> <p>6 work – (audio malfunction) –</p> <p>7 (Clarification requested by the</p> <p>8 stenographer.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. – to come in to work on discovery.</p> <p>11 Do you recall when you sent this text message,</p> <p>12 Mr. Dondero?</p> <p>13 A. No.</p> <p>14 Q. Do you know how Tara – withdrawn.</p> <p>15 Did Tara come in to work on discovery</p> <p>16 at any time?</p> <p>17 A. Yes.</p> <p>18 Q. And did you give her any instructions</p> <p>19 on what to do?</p> <p>20 A. Again, just generally.</p> <p>21 Q. What were the general instructions</p> <p>22 that you gave her?</p> <p>23 A. Work with the Bonds Ellis guys.</p> <p>24 Here's the access to my computer and my phone.</p> <p>25 Be complete and be responsive.</p>	<p>Page 83</p> <p>1 J. DONDERO</p> <p>2 Q. Did you ever speak with Mr. Ellington</p> <p>3 about your document production?</p> <p>4 A. No.</p> <p>5 Q. Did Mr. Ellington play any role in</p> <p>6 searching for, reviewing or producing responsive</p> <p>7 documents?</p> <p>8 A. Nope.</p> <p>9 Q. Did you ever speak with Mr. Leventon</p> <p>10 about your document production?</p> <p>11 A. Nope.</p> <p>12 Q. Did Mr. Leventon play any role in</p> <p>13 searching for, reviewing or producing responsive</p> <p>14 documents?</p> <p>15 A. Nope.</p> <p>16 Q. Did you ever speak with anybody</p> <p>17 employed by the debtor, other than Tara, about</p> <p>18 your document production?</p> <p>19 A. Tara's got an assistant, or my other</p> <p>20 assistant that works with Tara, Kelly, would have</p> <p>21 been the only other person.</p> <p>22 She might have been – Tara had to go</p> <p>23 back and see her girls during lunch, so I think</p> <p>24 she used Kelly to do some of the legwork.</p> <p>25 Q. Let's talk about the TRO for a</p>
<p>Page 84</p> <p>1 J. DONDERO</p> <p>2 second.</p> <p>3 MR. MORRIS: Can we put up Exhibit 9,</p> <p>4 please.</p> <p>5 (Dondero Deposition Exhibit 9</p> <p>6 marked.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. This is the temporary restraining</p> <p>9 order that was signed on December 10th.</p> <p>10 Do you see that?</p> <p>11 If we could scroll down just a little</p> <p>12 bit. Yeah.</p> <p>13 A. Okay.</p> <p>14 Q. You've never seen this document</p> <p>15 before, right?</p> <p>16 A. Yes, I haven't read it.</p> <p>17 Q. And I know I asked you earlier today</p> <p>18 what your understanding was of how this order</p> <p>19 restrained you.</p> <p>20 Do you remember those questions?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Is there anything, upon</p> <p>23 reflection, that you need to add in order to make</p> <p>24 the record complete as to your understanding of</p> <p>25 the scope of the injunction?</p>	<p>Page 85</p> <p>1 J. DONDERO</p> <p>2 A. Not at this moment.</p> <p>3 MR. MORRIS: Can you put up</p> <p>4 Exhibit 10, please.</p> <p>5 (Dondero Deposition Exhibit 10</p> <p>6 marked.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. All right. Have you seen this letter</p> <p>9 before, sir?</p> <p>10 A. No. I mean, not specifically. I</p> <p>11 probably received it, but I haven't read it.</p> <p>12 Q. All right. I just want to go back to</p> <p>13 the phone for a second to see if I can nail this</p> <p>14 down.</p> <p>15 Did you dispose of the phone</p> <p>16 somewhere around December 10th, 2020?</p> <p>17 A. I – I don't know. Probably.</p> <p>18 Q. Well, we just looked at that e-mail,</p> <p>19 right, that was from Mr. Rothstein.</p> <p>20 MR. MORRIS: Can we get that back?</p> <p>21 A. Yes.</p> <p>22 MR. MORRIS: I just want to see what</p> <p>23 the date of that was. Yes. Okay.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. So that's December 10th at 6:25 p.m.,</p>

<p>Page 86</p> <p>1 J. DONDERO</p> <p>2 right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So according to Mr. Rothstein,</p> <p>5 as of that date at that time, your phone was in</p> <p>6 Tara's desk, right?</p> <p>7 A. Yes.</p> <p>8 Q. You have no reason to disbelieve</p> <p>9 that, do you?</p> <p>10 MR. BONDS: Can you repeat the</p> <p>11 question? I'm sorry.</p> <p>12 MR. MORRIS: Withdrawn.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. So is it fair to say, then, that the</p> <p>15 phone was disposed of and thrown in the garbage</p> <p>16 sometime after December 10th?</p> <p>17 A. I don't know.</p> <p>18 Q. Well, as of December 10th,</p> <p>19 Mr. Rothstein told you that it was in Tara's</p> <p>20 desk, right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So if he -- Jason's not a</p> <p>23 liar, is he?</p> <p>24 A. No.</p> <p>25 Q. Do you have any reason to believe</p>	<p>Page 87</p> <p>1 J. DONDERO</p> <p>2 that the phone was anywhere other than Tara's</p> <p>3 desk at 6:25 p.m. on December 10th?</p> <p>4 A. I don't know.</p> <p>5 Q. You have no reason to believe that</p> <p>6 that statement by Mr. Rothstein is untrue,</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. Do you know how it came to be that</p> <p>10 the phone was disposed of in the manner that</p> <p>11 you've described?</p> <p>12 A. Nope.</p> <p>13 Q. You can't tell me who did it, is that</p> <p>14 right?</p> <p>15 A. Correct.</p> <p>16 Q. And you can't tell me when, after</p> <p>17 December 10th, that happened, right?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Thank you. Let's go back to,</p> <p>20 I guess, Exhibit 10. If we can just scroll down</p> <p>21 a little bit.</p> <p>22 I understand that you haven't seen</p> <p>23 this document before. Go to the next page,</p> <p>24 please -- no. Yeah, next page.</p> <p>25 Do you see the first full paragraph</p>
<p>Page 88</p> <p>1 J. DONDERO</p> <p>2 there beginning "On December 22nd"?</p> <p>3 A. I'm going to have to get up and read</p> <p>4 that. Just hold on a sec.</p> <p>5 Q. Okay. Take your time.</p> <p>6 A. Yes, I see that.</p> <p>7 Q. Okay. Having read that paragraph, do</p> <p>8 you have any basis to dispute any of the</p> <p>9 statements in that paragraph?</p> <p>10 MR. BONDS: I'm sorry. Can you read</p> <p>11 it again or can you ask your question again?</p> <p>12 MR. MORRIS: Sure. I'd like to know</p> <p>13 if Mr. Dondero has any basis to dispute any</p> <p>14 assertion made in that paragraph.</p> <p>15 A. I disagree with every sentence in</p> <p>16 that paragraph based on my 30 years of experience</p> <p>17 and understanding how to operate a registered</p> <p>18 investment advisor and how to do it in the</p> <p>19 interest of performance, investors and a</p> <p>20 registered investment advisor.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. All right. Let's try this</p> <p>23 differently. I shouldn't have done that.</p> <p>24 The first sentence, do you have any</p> <p>25 basis to disagree with any aspect of the first</p>	<p>Page 89</p> <p>1 J. DONDERO</p> <p>2 sentence of that paragraph? And let me just read</p> <p>3 it aloud, if I may.</p> <p>4 A. That -- all right. What's your</p> <p>5 question?</p> <p>6 Q. Is there anything inaccurate about</p> <p>7 the first sentence?</p> <p>8 A. I believe my instructions in the</p> <p>9 e-mails we went over were to not do the trades.</p> <p>10 You know, that sentence implies not settle the</p> <p>11 trade, which means to not do the trades once they</p> <p>12 were already bona fide. I -- I don't recall that</p> <p>13 ever being my contention.</p> <p>14 I would have preferred they be</p> <p>15 reversed, but my instructions, I believe, in</p> <p>16 everything we went over were to not do the</p> <p>17 trades, stop doing trades that are adverse to the</p> <p>18 interests of investors, but it wasn't regarding</p> <p>19 settling outstanding trades. So I think that</p> <p>20 sentence on its face is in error.</p> <p>21 Q. Okay. So but it's true, then, that</p> <p>22 you instructed employees of NPA and HCMFA on or</p> <p>23 around December 22nd to stop doing the trades of</p> <p>24 Avaya and Sky, correct?</p> <p>25 A. Yes.</p>

<p>Page 90</p> <p>1 J. DONDERO</p> <p>2 Q. Near the closing bell on – we're</p> <p>3 going to go back in time just a couple of days –</p> <p>4 on Friday the 18th, Mr. Sowin informed you that</p> <p>5 Seery wanted to sell these securities, right?</p> <p>6 A. I don't recall that specifically.</p> <p>7 MR. MORRIS: Okay. Can we put up</p> <p>8 Exhibit 11, please.</p> <p>9 (Dondero Deposition Exhibit 11</p> <p>10 marked.)</p> <p>11 MR. MORRIS: Okay. And if we can</p> <p>12 just go down to the bottom of it. Yeah.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. So that e-mail at the bottom, that's</p> <p>15 Mr. Seery's direction to sell Avaya securities</p> <p>16 from the CLOs, right?</p> <p>17 A. I don't know what's happening here.</p> <p>18 I don't know if this is fuzzy or my eyes are</p> <p>19 getting worse, but can we enlarge these a little</p> <p>20 bit, or I'm going to have to get up each time.</p> <p>21 Yeah. This is nutty and vindictive.</p> <p>22 I think everybody realizes that there's no</p> <p>23 liquidity in the markets the three days before</p> <p>24 Thanksgiving and Christmas. There's no urgency</p> <p>25 or reason to sell any of these securities that</p>	<p>Page 91</p> <p>1 J. DONDERO</p> <p>2 couldn't have waited until January or February.</p> <p>3 There's no business purpose in</p> <p>4 selling any of those securities, yet he's pushing</p> <p>5 them through for self-serving or vindictive</p> <p>6 reasons. I – or maybe trying to get more issues</p> <p>7 in front of the judge. I have no idea, but</p> <p>8 this – this stuff makes absolutely no sense and</p> <p>9 no business purpose.</p> <p>10 But I'm sorry, what's your question?</p> <p>11 MR. MORRIS: Okay. I move to strike</p> <p>12 and I'd ask you to listen to my question.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. It's simply that you learned, just</p> <p>15 before the closing bell on Friday, December 18th,</p> <p>16 that Mr. Seery wanted to sell Avaya securities</p> <p>17 out of the CLOs?</p> <p>18 MR. BONDS: Objection, form.</p> <p>19 THE WITNESS: Yeah, hold on. I need</p> <p>20 to interrupt for a second. When you strike</p> <p>21 something, does that mean it doesn't end up in</p> <p>22 the record?</p> <p>23 MR. MORRIS: The judge will decide</p> <p>24 whether or not it does. It's my request that the</p> <p>25 judge strike it from the record. She'll make the</p>
<p>Page 92</p> <p>1 J. DONDERO</p> <p>2 ruling.</p> <p>3 THE WITNESS: Okay. But then my</p> <p>4 lawyer can ask to put it in as my understanding</p> <p>5 of something at the end or something of the</p> <p>6 deposition or...</p> <p>7 MR. MORRIS: I don't want to give you</p> <p>8 legal advice, Mr. Dondero, but yes, that's</p> <p>9 generally how it works.</p> <p>10 THE WITNESS: Okay. Thank you.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. So again, the question is simply</p> <p>13 whether you learned near the closing bell on</p> <p>14 Friday, December 18th, that Mr. Seery wanted to</p> <p>15 sell Avaya shares out of the CLOs?</p> <p>16 MR. BONDS: Objection, form.</p> <p>17 A. It appears so.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay. And can you just scroll up</p> <p>20 above that, please. And – okay.</p> <p>21 Do you see that Mr. Sowin, in fact,</p> <p>22 forwards this right to you?</p> <p>23 A. Yes.</p> <p>24 Q. And it was on the basis of this that</p> <p>25 you instructed the NPA and HCMFA employees not to</p>	<p>Page 93</p> <p>1 J. DONDERO</p> <p>2 execute these sales?</p> <p>3 A. Yes.</p> <p>4 Q. After the TRO was issued, did you</p> <p>5 ever instruct any employees of NPA or HCMFA not</p> <p>6 to interfere or impede with the debtor's</p> <p>7 management of the CLOs?</p> <p>8 A. No.</p> <p>9 Q. To the best of your knowledge, did</p> <p>10 anyone ever instruct the employees of NPA and</p> <p>11 HCMFA not to interfere or impede with the</p> <p>12 debtor's management of the CLOs?</p> <p>13 A. No.</p> <p>14 Q. Did you ever provide a copy of the</p> <p>15 TRO to any employees of NPA and HCMFA?</p> <p>16 A. I did not.</p> <p>17 Q. Do you know if anybody ever provided</p> <p>18 a copy of the TRO to any of the employees of NPA</p> <p>19 and HCMFA?</p> <p>20 A. I do not know.</p> <p>21 MR. MORRIS: Okay. Can we put up</p> <p>22 Exhibit 12, please.</p> <p>23 (Dondero Deposition Exhibit 12</p> <p>24 marked.)</p> <p>25 ///</p>

<p>Page 94</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. This is a letter that was sent</p> <p>4 to K&L Gates.</p> <p>5 Do you know who K&L Gates represents</p> <p>6 in connection with this matter?</p> <p>7 A. Some of the retail funds.</p> <p>8 Q. And do they also represent the two</p> <p>9 advisors?</p> <p>10 A. Yes. I believe they're one of –</p> <p>11 yes.</p> <p>12 Q. Attached to this letter, there's an</p> <p>13 Exhibit A, if we can go down, and we'll find a</p> <p>14 letter from K&L Gates there. Okay.</p> <p>15 This is another letter from K&L Gates</p> <p>16 dated December 22nd, 2020. Are you able to see</p> <p>17 that, sir? Can we scroll down a little bit?</p> <p>18 A. Yes. Yes, I can see the letter.</p> <p>19 Q. Okay. Were you aware that this</p> <p>20 letter was sent at the time that it was?</p> <p>21 A. I was aware, yes.</p> <p>22 Q. And these are the same entities,</p> <p>23 except for CLO Holdco, that had filed the prior</p> <p>24 motion that was denied by the Court, right?</p> <p>25 A. I'm sorry, ask that question again.</p>	<p>Page 95</p> <p>1 J. DONDERO</p> <p>2 These were –</p> <p>3 Q. Yeah, let me just do a little</p> <p>4 background.</p> <p>5 A couple of – about a week before</p> <p>6 this letter was sent, the entities represented by</p> <p>7 K&L Gates, except for CLO Holdco, had made a</p> <p>8 motion in the bankruptcy court, right?</p> <p>9 A. Yes.</p> <p>10 Q. They had asked the Court to pause, to</p> <p>11 impose a pause on the debtor from selling any CLO</p> <p>12 assets; is that right?</p> <p>13 A. I don't – I don't know what</p> <p>14 exactly – I don't know the details of what they</p> <p>15 requested.</p> <p>16 Q. Okay. Did you authorize the filing</p> <p>17 of that motion?</p> <p>18 A. Authorize the filing? I</p> <p>19 championed – I pushed and encouraged the chief</p> <p>20 compliance officer and the general counsel to do</p> <p>21 what they believed was right as rigorously as</p> <p>22 possible, and it manifested itself in the letters</p> <p>23 that you're speaking of.</p> <p>24 Q. And you – and you approved of these</p> <p>25 letters, right?</p>
<p>Page 96</p> <p>1 J. DONDERO</p> <p>2 A. I – not directly and not</p> <p>3 specifically, but I encouraged them to do what</p> <p>4 they thought was right.</p> <p>5 Q. Okay. And you were aware that</p> <p>6 letters with the substance contained in them were</p> <p>7 going to be sent – (audio malfunction) –</p> <p>8 (Clarification requested by the</p> <p>9 stenographer.)</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. – to the debtor?</p> <p>12 THE STENOGRAPHER: And the answer</p> <p>13 again, please?</p> <p>14 MR. BONDS: And I objected as to</p> <p>15 form.</p> <p>16 THE STENOGRAPHER: And the answer</p> <p>17 again, please?</p> <p>18 A. I was aware that letters were being</p> <p>19 sent, and I was aware that motions – or a motion</p> <p>20 was being filed.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. This letter was also sent on behalf</p> <p>23 of CLO Holdco, Ltd.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>	<p>Page 97</p> <p>1 J. DONDERO</p> <p>2 Q. Are you the direct or indirect</p> <p>3 economic or beneficial owner of CLO Holdco, Ltd.?</p> <p>4 A. No.</p> <p>5 Q. Who is?</p> <p>6 A. I believe the DAF and HarbourVest.</p> <p>7 Q. And who controls the DAF?</p> <p>8 A. Grant Scott.</p> <p>9 Q. Who is the beneficial owner of the</p> <p>10 DAF?</p> <p>11 A. Three char- – three or four</p> <p>12 charitable organizations.</p> <p>13 Q. And who controls CLO Holdco?</p> <p>14 A. I don't know exactly.</p> <p>15 Q. Do you?</p> <p>16 A. No.</p> <p>17 Q. And who are the possibilities?</p> <p>18 A. CLO Holdco, my understanding is it</p> <p>19 was a – it was an investment amalgamation</p> <p>20 between HarbourVest and the DAF, so with the DAF</p> <p>21 having the primary – or the largest ownership</p> <p>22 interest.</p> <p>23 Q. And with that largest ownership</p> <p>24 interest, is the DAF able to control CLO Holdco?</p> <p>25 A. I don't know. Maybe.</p>

<p>Page 98</p> <p>1 J. DONDERO</p> <p>2 Q. You've never asked that question?</p> <p>3 A. Nope.</p> <p>4 Q. Did you ever instruct any of the</p> <p>5 advisors or funds to withdraw this letter?</p> <p>6 MR. BONDS: Objection, form.</p> <p>7 A. No.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. To the best of your knowledge, has</p> <p>10 anyone on behalf of the advisors, the funds or</p> <p>11 CLO Holdco ever instructed K&L Gates to withdraw</p> <p>12 this letter?</p> <p>13 A. Not that I'm aware of.</p> <p>14 Q. Okay. I want to just see if I can</p> <p>15 refresh your recollection a bit.</p> <p>16 When you talked about the DAF and</p> <p>17 HarbourVest, is it possible that you're confusing</p> <p>18 that with HCLOF?</p> <p>19 A. You know, you're right. It could be.</p> <p>20 Maybe it is CLO Holdco – you know what, let me</p> <p>21 just – let me not speculate. But the CLO Holdco</p> <p>22 might just be the DAF, and the combined entity</p> <p>23 might be the level above that. I – I don't know</p> <p>24 exactly. Let me leave it at that.</p> <p>25 Q. Okay. That's fair.</p>	<p>Page 99</p> <p>1 J. DONDERO</p> <p>2 This is the – I think you've</p> <p>3 testified – I'm trying to speed this up a little</p> <p>4 bit, believe it or not – that you supported the</p> <p>5 sending of this particular letter, right? And if</p> <p>6 you need to read more of it, let me know.</p> <p>7 A. No, I – again, the thrust of it, the</p> <p>8 theme of it, the – when you think bad or illegal</p> <p>9 or regulatorily inappropriate stuff has happened,</p> <p>10 what did you do, when you knew it, et cetera.</p> <p>11 And I think the responsibilities of that</p> <p>12 transcend a lot of things, you know.</p> <p>13 Q. But you are aware that these very</p> <p>14 same entities, except for CLO Holdco, had</p> <p>15 advanced the very same arguments to the</p> <p>16 bankruptcy court just six days earlier and their</p> <p>17 motion is denied, right?</p> <p>18 MR. BONDS: Objection, form.</p> <p>19 A. Yes. And with all due respect to the</p> <p>20 Court, it doesn't mean that it was wrong or</p> <p>21 inappropriate to advance the argument.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Okay. But having advanced the</p> <p>24 argument on December 16th and having had it</p> <p>25 rejected, you support these entities pressing the</p>
<p>Page 100</p> <p>1 J. DONDERO</p> <p>2 same arguments again against the debtor, right?</p> <p>3 A. We try and do what's right.</p> <p>4 MR. MORRIS: Okay. Can we put up</p> <p>5 Exhibit 13, please.</p> <p>6 (Dondero Deposition Exhibit 13</p> <p>7 marked.)</p> <p>8 MR. MORRIS: And if we can go to</p> <p>9 Exhibit A on the back. Thanks.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. This is another letter sent the next</p> <p>12 day, right, on December 23rd, from K&L Gates?</p> <p>13 And we can scroll down further, again.</p> <p>14 Do you recall that there was yet</p> <p>15 another letter sent on the 23rd?</p> <p>16 A. Yeah, I don't recall specifically,</p> <p>17 but...</p> <p>18 Q. Can we scroll down a little bit</p> <p>19 further in this document.</p> <p>20 Do you recall that there came a time</p> <p>21 when K&L Gates, on behalf of the advisors and the</p> <p>22 funds, told the debtor and its counsel that it</p> <p>23 was considering initiating the process for</p> <p>24 removing the debtor as portfolio manager of the</p> <p>25 CLOs?</p>	<p>Page 101</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: Objection, form.</p> <p>3 A. I believe they – I don't know if</p> <p>4 you're asking me a reservation of rights or</p> <p>5 whatever, but I think they should do everything</p> <p>6 as rigorously as possible to try and protect the</p> <p>7 investors.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Are you aware of any prohibition of</p> <p>10 doing what you're – withdrawn.</p> <p>11 Are you aware that the debtor made an</p> <p>12 offer to assign the CLO management agreements to</p> <p>13 NexPoint back in the beginning of December?</p> <p>14 A. I – I do remember that, and I did</p> <p>15 get a summary of that, and it was untenable in</p> <p>16 terms of what it was wrapped in.</p> <p>17 Q. What was untenable about it?</p> <p>18 A. Off the top of my head, it would give</p> <p>19 Seery releases for bad acts or inappropriate</p> <p>20 trades. It required a reimbursement for, I</p> <p>21 think, a million dollars of Pachulski fees</p> <p>22 relative to this subject, and I think it also</p> <p>23 wanted an up-front payment for the present value</p> <p>24 of the future management fees to be paid to the</p> <p>25 estate.</p>

<p>Page 102</p> <p>1 J. DONDERO</p> <p>2 Q. And who made the decision to reject</p> <p>3 the debtor's offer?</p> <p>4 A. Made a decision to reject the –</p> <p>5 reject the – it wasn't a rejection of the offer</p> <p>6 as much as a disagreement that that is the way</p> <p>7 CLO contracts transfer, that the manager doesn't</p> <p>8 have the right to extort from the next manager</p> <p>9 when the investors want to transfer.</p> <p>10 So there's a facilitation that</p> <p>11 Highland could provide, but Highland is not in a</p> <p>12 position, based on our understanding of the</p> <p>13 market, to demand consideration.</p> <p>14 Q. Okay. Who made the decision to</p> <p>15 reject the offer?</p> <p>16 A. I was involved in that. It wasn't a</p> <p>17 formal rejection, but it was a view that it was</p> <p>18 an inappropriate offer.</p> <p>19 Q. Did anybody decide or suggest that</p> <p>20 maybe we should make an appropriate offer?</p> <p>21 A. Not yet.</p> <p>22 Q. Was there any reason why, for the</p> <p>23 past month, when the debtor has provided an</p> <p>24 opportunity to transfer these CLO management</p> <p>25 contracts, that none of the advisors or anybody</p>	<p>Page 103</p> <p>1 J. DONDERO</p> <p>2 representing them has sought fit to make an</p> <p>3 appropriate counteroffer?</p> <p>4 A. We can get an appropriate</p> <p>5 counteroffer out tomorrow.</p> <p>6 Q. Okay. Is there anything that's</p> <p>7 prevented that over the last month instead of</p> <p>8 writing letters and engaging in this litigation?</p> <p>9 A. The fundamental prerequisites were so</p> <p>10 inappropriate that it dissuaded us from putting a</p> <p>11 normal, commercial, reasonable thing forward.</p> <p>12 But we'll put something commercial, reasonable</p> <p>13 and appropriate through tomorrow, and we'll see</p> <p>14 how far it goes.</p> <p>15 Q. Did you support the sending of this</p> <p>16 particular letter at the time it was sent?</p> <p>17 A. I – generally, yes.</p> <p>18 Q. Okay. Have you authorized any of the</p> <p>19 entities on this letter to initiate the process</p> <p>20 to remove the debtor as the fund manager of any</p> <p>21 CLO?</p> <p>22 MR. BONDS: Objection, form.</p> <p>23 A. That's not my position, and it's not</p> <p>24 without legal considerations regarding what's</p> <p>25 subject to a stay and what's appropriate at this</p>
<p>Page 104</p> <p>1 J. DONDERO</p> <p>2 juncture.</p> <p>3 But – but I believe, subject to</p> <p>4 whatever is legally appropriate, they should and</p> <p>5 they will be moving to replace the manager as</p> <p>6 quickly as possible and holding the manager</p> <p>7 responsible for bad acts prior to transfer.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Have you authorized any of the</p> <p>10 parties that are signatory to this letter to</p> <p>11 initiate the process to remove the debtor as the</p> <p>12 fund manager for the CLOs?</p> <p>13 A. I am not that involved. I haven't</p> <p>14 authorized it per se. Again, I'm encouraging the</p> <p>15 executives in charge to do the right thing, given</p> <p>16 the circumstances and what's best for investors,</p> <p>17 especially their retail investors and their</p> <p>18 obligations under the '40 Act.</p> <p>19 Q. You're the president of the two</p> <p>20 advisors, right?</p> <p>21 A. Yes.</p> <p>22 Q. And you're the portfolio manager of</p> <p>23 the funds, right?</p> <p>24 A. Yes.</p> <p>25 Q. Couldn't you give the direction to</p>	<p>Page 105</p> <p>1 J. DONDERO</p> <p>2 take steps to initiate the process to remove the</p> <p>3 debtor?</p> <p>4 MR. BONDS: I'm sorry, can you repeat</p> <p>5 the question?</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Don't you have the power to do that?</p> <p>8 MR. BONDS: I'm sorry. I couldn't</p> <p>9 hear your question.</p> <p>10 MR. MORRIS: Withdrawn.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you ever discuss with any – with</p> <p>13 anybody about whether to initiate the process to</p> <p>14 remove the debtor as the portfolio manager of the</p> <p>15 CLOs?</p> <p>16 A. I think it's a logical remedy, and I</p> <p>17 believe the executives, and particularly like the</p> <p>18 executives – the chief compliance officer always</p> <p>19 has personal liability, and I think Jason Post</p> <p>20 knows that, and I think he's pushing as hard as</p> <p>21 he can for the benefit of investors in a</p> <p>22 situation where people are moving against the</p> <p>23 best interests of investors.</p> <p>24 And I encourage him to move as</p> <p>25 aggressively as possible subject to whatever the</p>

<p>Page 106</p> <p>1 J. DONDERO</p> <p>2 limits of bankruptcy court is, but I can't be –</p> <p>3 I've got too many other things to do to be</p> <p>4 directly involved in the details, so I'm not</p> <p>5 involved in the details.</p> <p>6 Q. I see.</p> <p>7 Did you ever instruct the parties</p> <p>8 that are signatory – withdrawn.</p> <p>9 Did you ever instruct K&L Gates to</p> <p>10 withdraw this letter?</p> <p>11 A. No.</p> <p>12 Q. To the best of your knowledge, has</p> <p>13 anybody on behalf of the advisors, the funds or</p> <p>14 CLO Holdco ever instructed K&L Gates to withdraw</p> <p>15 this letter?</p> <p>16 A. No.</p> <p>17 Q. Will you commit that each of the</p> <p>18 entities on whose behalf this letter was sent</p> <p>19 will cease and desist from taking any steps to</p> <p>20 initiate the process to remove the debtor as the</p> <p>21 CLO manager?</p> <p>22 MR. BONDS: Objection, form.</p> <p>23 A. Say that again.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Will you commit on behalf of each of</p>	<p>Page 107</p> <p>1 J. DONDERO</p> <p>2 the funds and the advisors to cease and desist</p> <p>3 from taking any steps to replace the debtor as</p> <p>4 the portfolio manager of the CLOs?</p> <p>5 A. That would be inappropriate. I'm not</p> <p>6 sure it would be illegal, but I think it would be</p> <p>7 a regulatory breach, and I think it would not be</p> <p>8 in the best interest of investors if we were to</p> <p>9 agree to anything like that. I think that's nuts</p> <p>10 and it's nutty to ask that.</p> <p>11 Q. People say that about me all the</p> <p>12 time.</p> <p>13 Did you ever exchange any e-mails or</p> <p>14 texts with any employee of the parties on this</p> <p>15 document, on the issue of whether or how to</p> <p>16 remove the debtor as the CLO's fund manager?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Did you ever discuss with any</p> <p>19 employee of the debtor the topic of removing the</p> <p>20 debtor as the portfolio manager of the CLOs?</p> <p>21 A. Not that I recall.</p> <p>22 MR. MORRIS: Okay. It's 1:35. Can</p> <p>23 we just take a ten-minute break and resume – is</p> <p>24 it 12:35 where you are, Mr. Dondero? We'll</p> <p>25 resume at 1:45 Eastern, 12:45 Central.</p>
<p>Page 108</p> <p>1 J. DONDERO</p> <p>2 THE WITNESS: I'm sorry, I can't hear</p> <p>3 you. We return at what time?</p> <p>4 MR. MORRIS: In ten minutes, at</p> <p>5 12:45.</p> <p>6 MR. BONDS: And I want to say too,</p> <p>7 John, that your notice showed that there was a</p> <p>8 1:30 deposition Central Time of somebody else,</p> <p>9 and we intend – I mean, we planned on that, so</p> <p>10 we're going to need to be through at 1:30.</p> <p>11 MR. MORRIS: Yeah, you can do that if</p> <p>12 you want. You can do that if you want, but the</p> <p>13 record will also reflect that we started at least</p> <p>14 20 minutes late and we took at least a 35-minute</p> <p>15 break for Mr. Dondero. So you leave whenever you</p> <p>16 want, but be guided by that.</p> <p>17 Let's take a break.</p> <p>18 MR. BONDS: Well, I'm telling you</p> <p>19 that if you want to go forward, you can.</p> <p>20 MR. MORRIS: I will. Thank you. I</p> <p>21 appreciate that.</p> <p>22 THE WITNESS: All right. See you</p> <p>23 guys in 10 minutes.</p> <p>24 THE VIDEOGRAPHER: 12:36 p.m.,</p> <p>25 Central Standard Time. We're off the record.</p>	<p>Page 109</p> <p>1 J. DONDERO</p> <p>2 (Recess taken, 12:36 p.m. to</p> <p>3 12:49 p.m. CST)</p> <p>4 THE VIDEOGRAPHER: 12:49 p.m.,</p> <p>5 Central Standard Time. We're back on the record.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. All right. Can you hear me,</p> <p>8 Mr. Dondero?</p> <p>9 A. Yes.</p> <p>10 Q. Is it fair – do you think it's fair</p> <p>11 to say that your personal interests are adverse</p> <p>12 to the debtor's?</p> <p>13 A. No.</p> <p>14 Q. They asked for your resignation back</p> <p>15 in October, right?</p> <p>16 A. Yes.</p> <p>17 Q. And you opposed the debtor's plan on</p> <p>18 file, right?</p> <p>19 A. Yes.</p> <p>20 Q. And you objected to the debtor's</p> <p>21 settlement with ACIS; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And you're going to object to the</p> <p>24 debtor's settlement with HarbourVest; is that</p> <p>25 right?</p>

<p>Page 110</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: Objection, form.</p> <p>3 A. I don't know for sure. I believe so.</p> <p>4 I don't know.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. And the debtor commenced an adversary</p> <p>7 proceeding against you; is that right?</p> <p>8 MR. BONDS: Objection, form.</p> <p>9 A. I'm not aware of that in particular.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. The debtor sought and obtained a TRO</p> <p>12 against you; isn't that right?</p> <p>13 A. Oh. Okay, yes.</p> <p>14 Q. And they also started a lawsuit?</p> <p>15 They filed a complaint against you -- is that</p> <p>16 right -- for preliminary and permanent injunctive</p> <p>17 relief?</p> <p>18 A. I'm aware of it, yes.</p> <p>19 Q. And the debtor has removed you from</p> <p>20 its offices, right?</p> <p>21 A. Yes.</p> <p>22 Q. And based on all of that, would you</p> <p>23 agree that your personal interests are adverse to</p> <p>24 the debtor?</p> <p>25 A. No.</p>	<p>Page 111</p> <p>1 J. DONDERO</p> <p>2 Q. Okay. Since the TRO was entered,</p> <p>3 have you ever discussed your litigation strategy</p> <p>4 with Mr. Ellington?</p> <p>5 A. Not -- no. Not that I'm aware of.</p> <p>6 That's not the subject of our conversations.</p> <p>7 He's more of a go-between, and he's more of an</p> <p>8 overall strategist.</p> <p>9 Q. And he's a strategist for your -- you</p> <p>10 know, for the defense and prosecution of your</p> <p>11 personal interests, right?</p> <p>12 A. No.</p> <p>13 Q. No?</p> <p>14 Do you remember that there were</p> <p>15 actually two motions on the calendar on</p> <p>16 December 16th? There was the motion that you</p> <p>17 brought that was called, I guess, the active</p> <p>18 ordinary course transactions motion, and then</p> <p>19 there was the motion brought by the K&L Gates</p> <p>20 firm on behalf of -- (audio malfunction) --</p> <p>21 (Clarification requested by the</p> <p>22 stenographer.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. -- the advisors and the funds, where</p> <p>25 they sought the pause of the sale of CLO assets.</p>
<p>Page 112</p> <p>1 J. DONDERO</p> <p>2 Do you remember that those two</p> <p>3 motions were on the calendar a couple of weeks</p> <p>4 ago?</p> <p>5 A. I remember that K&L Gates one. The</p> <p>6 first one, I don't remember.</p> <p>7 Q. Do you remember discussing with</p> <p>8 Mr. Ellington the need for a witness for one of</p> <p>9 those motions?</p> <p>10 A. No. I don't remember the motion.</p> <p>11 Q. Do you remember that Mr. Ellington</p> <p>12 suggested that J.P. Sevilla serve as a witness</p> <p>13 for one of those motions?</p> <p>14 A. I don't remember that.</p> <p>15 MR. MORRIS: Put up Exhibit 15,</p> <p>16 please.</p> <p>17 (Dondero Deposition Exhibit 15</p> <p>18 marked.)</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. If we can go down here, do you see</p> <p>21 that on Saturday, December 12th, Mr. Lynn wrote</p> <p>22 to you and said: It looks like a trial?</p> <p>23 A. Yes.</p> <p>24 Q. Can you scroll up above that, please.</p> <p>25 Keep going. And then Mr. Lynn -- I'm sorry, not</p>	<p>Page 113</p> <p>1 J. DONDERO</p> <p>2 so much.</p> <p>3 And then Mr. Lynn wrote: That said,</p> <p>4 we must have a witness now.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Now, go up to the top, and</p> <p>8 Mr. Ellington writes to you and to others: It</p> <p>9 will be J.P. Sevilla. I will tell him that he</p> <p>10 needs to contact you first thing in the morning.</p> <p>11 Have I read that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Now, this is after the TRO is</p> <p>14 entered, right?</p> <p>15 A. Like I said, I'm not -- I see my name</p> <p>16 on the cc list. I don't have an awareness of</p> <p>17 what this is about, so...</p> <p>18 Q. Okay. Do you know what trial</p> <p>19 Mr. Sevilla was going to testify at?</p> <p>20 A. No.</p> <p>21 Q. You didn't produce --</p> <p>22 A. You can refresh my memory, but I</p> <p>23 don't have a recollection from this.</p> <p>24 Q. To be fair, Mr. Dondero, I don't</p> <p>25 know. This is discovery, and I'm just asking a</p>

<p>Page 114</p> <p>1 J. DONDERO</p> <p>2 question, if you know.</p> <p>3 A. Okay.</p> <p>4 Q. Do you recall if you produced this</p> <p>5 e-mail in discovery?</p> <p>6 A. I have no idea.</p> <p>7 Q. Do you recall looking to</p> <p>8 Mr. Ellington for leadership in helping to</p> <p>9 coordinate all the lawyers acting on your behalf</p> <p>10 and on behalf of the entities owned and</p> <p>11 controlled by you?</p> <p>12 A. I know I needed some coordination,</p> <p>13 but I think I went in a different direction, and</p> <p>14 that's why I brought on Douglas Draper, and he's</p> <p>15 been functioning in that role of joint defense</p> <p>16 and coordination.</p> <p>17 Q. But you did tell Mr. Ellington, after</p> <p>18 the TRO was entered, that you needed him to</p> <p>19 provide leadership with respect to the</p> <p>20 coordination of your litigation interests, right?</p> <p>21 A. I – I don't – I don't remember.</p> <p>22 Like I said, I ended up going in a different</p> <p>23 direction, but I – I don't – I don't know as</p> <p>24 far as your question is concerned.</p> <p>25 MR. MORRIS: Okay. Can we put up</p>	<p>Page 115</p> <p>1 J. DONDERO</p> <p>2 Exhibit 16, please.</p> <p>3 (Dondero Deposition Exhibit 16</p> <p>4 marked.)</p> <p>5 MR. MORRIS: Scroll down to the</p> <p>6 bottom. Not that far. Right there.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. So this is an e-mail from Mr. Draper</p> <p>9 to you on December 16th.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 MR. BONDS: I'm going to object.</p> <p>13 Mr. Draper is a lawyer.</p> <p>14 MR. MORRIS: He is. I understand</p> <p>15 that.</p> <p>16 MR. BONDS: Anything that was</p> <p>17 produced that relates to Douglas Draper and Mike</p> <p>18 Lynn and Jim Dondero is attorney-client</p> <p>19 privileged.</p> <p>20 MR. MORRIS: You're entitled to make</p> <p>21 that assertion, but if we just look at the top so</p> <p>22 we can clear this up. All the way to the top.</p> <p>23 Mr. Dondero forwards this to Mr. Ellington.</p> <p>24 Mr. Ellington is not Mr. Dondero's personal</p> <p>25 lawyer. He is the lawyer for the debtor, and</p>
<p>Page 116</p> <p>1 J. DONDERO</p> <p>2 your firm doesn't represent any business</p> <p>3 interest, so there's no claim that this is</p> <p>4 somehow provided pursuant to a shared services</p> <p>5 agreement. Unless you can tell me that there's a</p> <p>6 common – (audio malfunction) –</p> <p>7 (Clarification requested by the</p> <p>8 stenographer.)</p> <p>9 MR. MORRIS: – a common interest</p> <p>10 between Mr. Ellington and Mr. Dondero,</p> <p>11 Mr. Dondero has waived the privilege. State your</p> <p>12 position, and I'm happy to state mine, but I need</p> <p>13 to ask questions.</p> <p>14 Can we go back down to the bottom,</p> <p>15 please. All right.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. So on December 16th, Mr. Draper is</p> <p>18 looking to get a joint meeting together, right?</p> <p>19 Do you remember that?</p> <p>20 A. I'm sorry, what's the question?</p> <p>21 Q. Do you recall that on or around</p> <p>22 December 16th, Mr. Draper was looking to get a</p> <p>23 joint meeting among all the lawyers representing</p> <p>24 you and your business interests as well as the</p> <p>25 employees for Highland?</p>	<p>Page 117</p> <p>1 J. DONDERO</p> <p>2 A. What I do know is Douglas Draper has</p> <p>3 put together a mutual defense agreement, and I</p> <p>4 think the 16th is right about when he came on</p> <p>5 board. He had to reach out and get people's</p> <p>6 e-mails and contact information and be able to</p> <p>7 coordinate it.</p> <p>8 But he's now fully engaged and fully</p> <p>9 functional in that role. Ellington is not</p> <p>10 involved in that role at all. Can you – but I</p> <p>11 don't know exact time frames or exactly who said</p> <p>12 what to who when, but go ahead, ask me whatever</p> <p>13 you want.</p> <p>14 Q. You mentioned a mutual defense</p> <p>15 agreement. Do I have that right?</p> <p>16 MR. BONDS: Objection –</p> <p>17 A. I don't know what – I don't know</p> <p>18 what the legal term is.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Okay. But there's a joint –</p> <p>21 MR. BONDS: Don't talk about that,</p> <p>22 Jim.</p> <p>23 MR. MORRIS: Okay.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Let me ask you this: Did Scott</p>

<p>Page 118</p> <p>1 J. DONDERO</p> <p>2 Ellington participate in the drafting of the</p> <p>3 joint interest or mutual defense agreement?</p> <p>4 A. No.</p> <p>5 Q. Did Isaac Leventon participate in the</p> <p>6 drafting of a joint defense or mutual defense</p> <p>7 agreement?</p> <p>8 A. No.</p> <p>9 Q. Did you ever discuss with either of</p> <p>10 them the topic of a joint defense or a mutual</p> <p>11 defense agreement?</p> <p>12 A. That was entirely with Draper.</p> <p>13 Q. Okay. Let's scroll up the page a</p> <p>14 little bit. There's a response from Mr. Lynn.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And then if we scroll up a little</p> <p>18 further, you forward it to Mr. Ellington, right?</p> <p>19 If we can go to the –</p> <p>20 A. Yes.</p> <p>21 Q. And you said: I'm going to need you</p> <p>22 to provide leadership here.</p> <p>23 Have I read that correctly?</p> <p>24 A. Yes.</p> <p>25 Q. Why did you send this e-mail string</p>	<p>Page 119</p> <p>1 J. DONDERO</p> <p>2 to Mr. Ellington on December 16th?</p> <p>3 A. I don't remember.</p> <p>4 Q. What leadership were you looking for?</p> <p>5 A. I can't piece it together from here.</p> <p>6 I don't remember. I can't piece it together from</p> <p>7 the e-mail, and I don't remember.</p> <p>8 Q. Why did you need Mr. Ellington to</p> <p>9 provide leadership?</p> <p>10 A. I don't know.</p> <p>11 Q. Does –</p> <p>12 A. I don't remember.</p> <p>13 Q. Okay. Does looking at the topic, a</p> <p>14 list for a joint meeting, refresh your</p> <p>15 recollection that you wanted Mr. Ellington to</p> <p>16 coordinate all of the lawyers working on your</p> <p>17 behalf and on behalf of the entities in which you</p> <p>18 own an interest?</p> <p>19 A. No. I mean, because that was the</p> <p>20 beginning of the string, but the middle of the</p> <p>21 string starts going in different directions. I</p> <p>22 can't say – I can't say what I wanted him to</p> <p>23 have leadership with.</p> <p>24 Q. Can you think of any – any issue at</p> <p>25 all, looking at this e-mail string, as to what he</p>
<p>Page 120</p> <p>1 J. DONDERO</p> <p>2 would be providing leadership for if it's not to</p> <p>3 coordinate your defense counsel?</p> <p>4 A. I don't want to speculate, but</p> <p>5 again – I don't want to speculate, but again,</p> <p>6 the middle of the string looks like it goes in</p> <p>7 different directions than just forming the mutual</p> <p>8 defense thing.</p> <p>9 Q. Okay. So you have no recollection</p> <p>10 why you forwarded this e-mail to Mr. Ellington on</p> <p>11 December 16th and why you told him that you need</p> <p>12 him to provide leadership here; is that your</p> <p>13 testimony?</p> <p>14 A. Correct.</p> <p>15 Q. Is Mr. Ellington a party to any joint</p> <p>16 defense or mutual defense agreement that you're a</p> <p>17 party to?</p> <p>18 A. I believe the employees' counsel is</p> <p>19 part of the working group, although I've been on</p> <p>20 calls when the employees' counsel has been on and</p> <p>21 when it hasn't. But I don't even – I think the</p> <p>22 employee group is divided into a couple different</p> <p>23 groups, and I don't know if Ellington is part of</p> <p>24 both groups.</p> <p>25 But I – Ellington individually is</p>	<p>Page 121</p> <p>1 J. DONDERO</p> <p>2 not part of the working group, and I'm not sure</p> <p>3 which, if one or both, of the employee groups</p> <p>4 he's in.</p> <p>5 Q. So there's two employee groups; is</p> <p>6 that right?</p> <p>7 A. I'm beyond my involvement and</p> <p>8 expertise, but I thought there were two employee</p> <p>9 groups, but I don't even know that for sure.</p> <p>10 Q. And has your counsel conferred with</p> <p>11 counsel for either or both of the employee</p> <p>12 groups?</p> <p>13 MR. BONDS: I'm sorry, can you repeat</p> <p>14 the question?</p> <p>15 MR. MORRIS: Yes.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Has your counsel at Bonds Ellis</p> <p>18 conferred with counsel for either or both of the</p> <p>19 employee groups?</p> <p>20 A. I don't know.</p> <p>21 MR. MORRIS: John, I would call for</p> <p>22 the immediate production of any –</p> <p>23 MR. BONDS: I don't think we have it,</p> <p>24 but I can check on that.</p> <p>25 MR. MORRIS: I would call for the</p>

<p>Page 122</p> <p>1 J. DONDERO</p> <p>2 immediate production of any joint defense or</p> <p>3 mutual defense agreement to which any debtor</p> <p>4 employee is a party –</p> <p>5 MR. BONDS: I don't think that there</p> <p>6 are any.</p> <p>7 MR. MORRIS: And I would call for any</p> <p>8 drafts, okay?</p> <p>9 MR. BONDS: Again, I don't think</p> <p>10 there are any.</p> <p>11 MR. MORRIS: Okay. You can give me</p> <p>12 that representation.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Let's look at the top, at</p> <p>15 Mr. Ellington's response. And what did he tell</p> <p>16 you in response to your statement that you need</p> <p>17 him to provide leadership?</p> <p>18 A. You mean the two words there?</p> <p>19 Q. Yep.</p> <p>20 A. It looks like he typed back: On it.</p> <p>21 Q. Yeah.</p> <p>22 Did Mr. Ellington subsequently</p> <p>23 provide leadership, as you had asked?</p> <p>24 A. I don't remember. Nothing I can</p> <p>25 recall.</p>	<p>Page 123</p> <p>1 J. DONDERO</p> <p>2 Q. Did Mr. Ellington ever participate in</p> <p>3 any conference calls with your counsel at Bonds</p> <p>4 Ellis?</p> <p>5 A. Not that – not that I recall.</p> <p>6 Ellington's time has been spent primarily, the</p> <p>7 vast majority, representing and working with the</p> <p>8 employee group. I know that. It's been</p> <p>9 difficult to get his attention on anything else</p> <p>10 so –</p> <p>11 Q. Listen carefully to my question. I'm</p> <p>12 not asking you to tell me what Mr. Ellington</p> <p>13 does. I'm simply asking whether you know that</p> <p>14 Mr. Ellington has participated in conference</p> <p>15 calls with your counsel at Bonds Ellis at any</p> <p>16 time after December 10th.</p> <p>17 A. I don't know.</p> <p>18 Q. Did you ever participate in any calls</p> <p>19 with Mr. Ellington and any lawyer at Bonds Ellis?</p> <p>20 A. Over the year, for sure. There have</p> <p>21 been – earlier in the year there were several</p> <p>22 times, but I can't recall one recently.</p> <p>23 Q. So you have no recollection of ever</p> <p>24 participating in a phone call with Mr. Ellington</p> <p>25 and any lawyer at Bonds Ellis at any time since</p>
<p>Page 124</p> <p>1 J. DONDERO</p> <p>2 December 10th; is that your testimony?</p> <p>3 A. I – I can't recall. I'm willing to</p> <p>4 be refreshed. I can't recall. There were –</p> <p>5 there were – some of the calls that stick out in</p> <p>6 my mind I believe occurred prior to that date, so</p> <p>7 I can't – I can't recall any post that date.</p> <p>8 Q. Okay. You didn't produce this e-mail</p> <p>9 in response to the Court's order, did you?</p> <p>10 A. I don't know.</p> <p>11 Q. And that's because you didn't take</p> <p>12 the time to look at the production before it was</p> <p>13 delivered to my firm, right?</p> <p>14 A. I – I believe the – yeah, I mean,</p> <p>15 it's a process I don't – I don't get directly</p> <p>16 involved in. Counsel has to decide what's</p> <p>17 responsive, what's privileged, what's complete,</p> <p>18 what's appropriate. That's not my job.</p> <p>19 Q. Are you aware that any documents for</p> <p>20 which a privilege was asserted were supposed to</p> <p>21 be delivered to the Court last December 31st?</p> <p>22 A. I'm not saying that's what – I have</p> <p>23 no idea whether we produced this or didn't</p> <p>24 produce it. And if we didn't, I don't know why.</p> <p>25 Q. Do you know that the UCC has asked</p>	<p>Page 125</p> <p>1 J. DONDERO</p> <p>2 for the financial statements for Dugaboy and Get</p> <p>3 Good?</p> <p>4 MR. BONDS: Objection, you're going</p> <p>5 far afield from where we're – this TRO.</p> <p>6 MR. MORRIS: You can take that</p> <p>7 position if you want, but I assure you, when I'm</p> <p>8 done, you'll understand.</p> <p>9 MR. BONDS: I'm going to instruct the</p> <p>10 witness not to answer the question.</p> <p>11 MR. MORRIS: You're not going to let</p> <p>12 him answer as to whether or not the UCC wanted</p> <p>13 the Dugaboy and Get Good financial statements?</p> <p>14 MR. BONDS: I can't hear you.</p> <p>15 MR. MORRIS: Yeah, I apologize.</p> <p>16 It's – it's not me, John. Let me just ask</p> <p>17 again. Are you – you're going to instruct your</p> <p>18 witness not to answer the question of whether he</p> <p>19 knew that the UCC wanted the Dugaboy and Get Good</p> <p>20 financial statements?</p> <p>21 MR. BONDS: I'll let you go one –</p> <p>22 you can ask that one question. But anything</p> <p>23 further into Dugaboy is not something that is for</p> <p>24 the Court to determine at this point in this</p> <p>25 case.</p>

<p style="text-align: right;">Page 126</p> <p>1 J. DONDERO</p> <p>2 MR. MORRIS: Okay.</p> <p>3 So you can answer that question, sir.</p> <p>4 A. I think there have been several times</p> <p>5 over the last year that Dugaboy financials have</p> <p>6 been requested by a variety of entities. I don't</p> <p>7 know when or recently or if the UCC requested it</p> <p>8 recently.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. You know a number of different</p> <p>11 parties have asked for the Dugaboy and Get Good</p> <p>12 financial statements; is that right?</p> <p>13 MR. BONDS: I'm going to object to</p> <p>14 any answer that you may give following up on</p> <p>15 Dugaboy. Dugaboy is not subject to the TRO and</p> <p>16 you're stuck with your adversary proceeding.</p> <p>17 MR. MORRIS: John, there is a text</p> <p>18 message that we're going to get to in a moment,</p> <p>19 so I'll end the suspense. Mr. Dondero</p> <p>20 specifically says: Don't produce the Dugaboy</p> <p>21 financial statements without a subpoena. Those</p> <p>22 documents were in the debtor's possession. I</p> <p>23 will tell you that I personally made at least a</p> <p>24 half a dozen requests of Mr. Ellington and</p> <p>25 Mr. Leventon for those documents.</p>	<p style="text-align: right;">Page 127</p> <p>1 J. DONDERO</p> <p>2 I will tell you that Jim Seery</p> <p>3 instructed them to provide those documents</p> <p>4 because they're in the debtor's possession,</p> <p>5 custody and control.</p> <p>6 I will tell you that there's no</p> <p>7 shared services agreement between Dugaboy or Get</p> <p>8 Good and the debtor, and there is no basis for</p> <p>9 those – for Mr. Ellington and Mr. Leventon to</p> <p>10 have obstructed the debtor's obligation to</p> <p>11 provide those documents except in Mr. Dondero's</p> <p>12 hands.</p> <p>13 MR. BONDS: I'm going to instruct the</p> <p>14 witness not to answer the question.</p> <p>15 MR. MORRIS: I think that might be a</p> <p>16 good idea. On what basis?</p> <p>17 MR. BONDS: I don't need to give a</p> <p>18 basis. I think that you've gone far, far from</p> <p>19 what we're here on today, which is –</p> <p>20 MR. MORRIS: I believe that it's –</p> <p>21 MR. BONDS: – specifically –</p> <p>22 MR. MORRIS: I'm sorry to interrupt.</p> <p>23 Go ahead, John.</p> <p>24 MR. BONDS: Specifically, it's the</p> <p>25 TRO and the injunction.</p>
<p style="text-align: right;">Page 128</p> <p>1 J. DONDERO</p> <p>2 MR. MORRIS: Correct. And the TRO</p> <p>3 specifically – I know Mr. Dondero doesn't know</p> <p>4 this because he hasn't read the document, but in</p> <p>5 addition to the things that he mentioned, it also</p> <p>6 prevents him from interfering with the debtor's</p> <p>7 business.</p> <p>8 The debtor is a litigant here. The</p> <p>9 debtor has an obligation to provide these</p> <p>10 documents. And he interfered with that</p> <p>11 obligation.</p> <p>12 Let me ask my questions and you can</p> <p>13 direct him not to answer every single time if you</p> <p>14 want, okay?</p> <p>15 MR. BONDS: Okay.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Do you know a woman named Melissa,</p> <p>18 Mr. Dondero?</p> <p>19 A. Yes.</p> <p>20 Q. And who is that?</p> <p>21 A. She's my personal accountant.</p> <p>22 Q. Does she work at the Highland</p> <p>23 offices?</p> <p>24 A. Yes.</p> <p>25 Q. Is she employed by the debtor?</p>	<p style="text-align: right;">Page 129</p> <p>1 J. DONDERO</p> <p>2 A. I believe so.</p> <p>3 Q. Do you know what her title is?</p> <p>4 A. No.</p> <p>5 Q. Do you directly or indirectly</p> <p>6 control – withdrawn.</p> <p>7 Do you directly or indirectly own</p> <p>8 Dugaboy?</p> <p>9 A. No.</p> <p>10 Q. Who owns Dugaboy?</p> <p>11 MR. BONDS: I'm going to instruct the</p> <p>12 witness not to answer that question.</p> <p>13 MR. MORRIS: Are you going to follow</p> <p>14 your counselor's advice?</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Who controls Dugaboy?</p> <p>18 MR. BONDS: I'm going to instruct the</p> <p>19 witness not to answer that question, for the</p> <p>20 second time.</p> <p>21 MR. MORRIS: Are you going to</p> <p>22 follow – yeah, we'll do this every time, John,</p> <p>23 just for the record.</p> <p>24 MR. BONDS: That's fine.</p> <p>25 MR. MORRIS: So I apologize. I</p>

<p>Page 130</p> <p>1 J. DONDERO</p> <p>2 appreciate, you know, you do your job, I'll do</p> <p>3 mine.</p> <p>4 Mr. Dondero, are you going to follow</p> <p>5 your counsel's advice?</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. To the best of your knowledge,</p> <p>9 Dugaboy does not have a shared services agreement</p> <p>10 with the debtor, correct?</p> <p>11 You can answer, sir.</p> <p>12 THE WITNESS: I'm not answering,</p> <p>13 right? I'm not answering any questions on this</p> <p>14 subject.</p> <p>15 MR. MORRIS: Only if your lawyer</p> <p>16 instructs you to do that, and he hasn't done that</p> <p>17 for this question.</p> <p>18 MR. BONDS: I'm going to instruct the</p> <p>19 witness not to answer the question.</p> <p>20 MR. MORRIS: You're not going to let</p> <p>21 him answer whether Dugaboy has a shared services</p> <p>22 agreement with the debtor?</p> <p>23 MR. BONDS: I think that you're</p> <p>24 entitled to that, so Jim, you can answer that</p> <p>25 question.</p>	<p>Page 131</p> <p>1 J. DONDERO</p> <p>2 A. I – I don't know.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Okay. Are you familiar with an</p> <p>5 entity called Get Good?</p> <p>6 A. Yes.</p> <p>7 Q. Do you directly or indirectly own Get</p> <p>8 Good?</p> <p>9 A. No.</p> <p>10 Q. Do you control, directly or</p> <p>11 indirectly, Get Good?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Who owns Get Good?</p> <p>14 MR. BONDS: I'm going to instruct the</p> <p>15 witness not to answer the question.</p> <p>16 MR. MORRIS: Are you going to follow</p> <p>17 your counselor's advice?</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Who controls Get Good?</p> <p>21 MR. BONDS: Instruct the witness not</p> <p>22 to answer the question.</p> <p>23 MR. MORRIS: Are you going to follow</p> <p>24 your counselor's advice, Mr. Dondero?</p> <p>25 THE WITNESS: I'm going to follow his</p>
<p>Page 132</p> <p>1 J. DONDERO</p> <p>2 advice, yes.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. To the best of your knowledge, Get</p> <p>5 Good does not have a shared services agreement</p> <p>6 with the debtor, does it?</p> <p>7 THE WITNESS: Can I answer that or</p> <p>8 not answer that one?</p> <p>9 MR. BONDS: Yes, you can.</p> <p>10 A. I don't know.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you ever discuss the request by</p> <p>13 any party to produce the financial statements of</p> <p>14 Get Good and Dugaboy with Scott Ellington?</p> <p>15 MR. BONDS: I'm going to tell you –</p> <p>16 advise you not to answer the question.</p> <p>17 MR. MORRIS: Are you going to follow</p> <p>18 your counselor's advice?</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Did you ever communicate with</p> <p>22 Mr. Leventon on the subject matter of whether or</p> <p>23 not the financial statements for Get Good and</p> <p>24 Dugaboy needed to be produced by the debtor?</p> <p>25 MR. BONDS: I'm going to advise the</p>	<p>Page 133</p> <p>1 J. DONDERO</p> <p>2 witness not to answer the question.</p> <p>3 MR. MORRIS: Are you going to follow</p> <p>4 your counselor's advice?</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Did you ever communicate with anybody</p> <p>8 at any time who was employed by the debtor</p> <p>9 regarding the production of the Dugaboy and Get</p> <p>10 Good financial statements?</p> <p>11 MR. BONDS: I'm going to instruct the</p> <p>12 witness not to answer the question.</p> <p>13 MR. MORRIS: Are you going to follow</p> <p>14 your counselor's advice?</p> <p>15 THE WITNESS: Yes.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Melissa is Melissa Schroth, right?</p> <p>18 A. Yes.</p> <p>19 Q. She's an executive accountant</p> <p>20 employed by the debtor, right?</p> <p>21 A. Yes.</p> <p>22 Q. And after December 10th, 2020</p> <p>23 Ms. Schroth told you that a request had been made</p> <p>24 for the production of the Dugaboy financial</p> <p>25 statements, correct?</p>

<p>Page 134</p> <p>1 J. DONDERO</p> <p>2 MR. BONDS: You can answer the</p> <p>3 question.</p> <p>4 A. I don't remember.</p> <p>5 MR. MORRIS: Okay. Can we put up</p> <p>6 Exhibit 17, please.</p> <p>7 (Dondero Deposition Exhibit 17</p> <p>8 marked.)</p> <p>9 MR. MORRIS: Can you scroll down a</p> <p>10 little bit? I'm sorry. Scroll up so we can see</p> <p>11 who this text was sent to.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Is that Melissa Schroth?</p> <p>14 A. Yes.</p> <p>15 Q. And if we scroll back down, do you</p> <p>16 see that you tell Ms. Schroth on December 16th:</p> <p>17 No Dugaboy details without a subpoena?</p> <p>18 A. Yes.</p> <p>19 Q. That's a text that you sent to her on</p> <p>20 December 16th, correct?</p> <p>21 A. I believe so.</p> <p>22 Q. What prompted you to send this text?</p> <p>23 A. I don't know.</p> <p>24 Q. You don't have any recollection as to</p> <p>25 why you would tell Melissa, quote, no Dugaboy</p>	<p>Page 135</p> <p>1 J. DONDERO</p> <p>2 details without a subpoena?</p> <p>3 A. No, but that would – I mean, I stand</p> <p>4 behind that response, but I don't remember why.</p> <p>5 Q. Do you remember who was asking for</p> <p>6 the documents?</p> <p>7 A. Nope.</p> <p>8 Q. Do you remember any discussion with</p> <p>9 any person at any time concerning the production</p> <p>10 of the Dugaboy or Get Good financial statements?</p> <p>11 A. Nope.</p> <p>12 Q. Do you have any objection to the</p> <p>13 debtor producing the Dugaboy and Get Good</p> <p>14 financial statements?</p> <p>15 A. I'm sorry, say that again?</p> <p>16 Q. Would you consent to the debtor's</p> <p>17 production of the Get Good and Dugaboy financial</p> <p>18 statements?</p> <p>19 A. With a subpoena. I stand by that</p> <p>20 statement, yeah.</p> <p>21 Q. Okay. Do you know of any reason why</p> <p>22 Mr. Ellington and Mr. Leventon would have failed</p> <p>23 to respond to Mr. Seery's instruction to produce</p> <p>24 the Dugaboy and Get Good financial statements</p> <p>25 that were requested by the – (audio</p>
<p>Page 136</p> <p>1 J. DONDERO</p> <p>2 malfunction) –</p> <p>3 (Clarification requested by the</p> <p>4 stenographer.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. – UCC?</p> <p>7 A. I don't want to speculate.</p> <p>8 Q. Have you heard of the law firm</p> <p>9 Baker & McKenzie?</p> <p>10 A. Yes.</p> <p>11 Q. Does that firm or any lawyer at that</p> <p>12 firm represent you in your individual capacity?</p> <p>13 A. No.</p> <p>14 Q. Does that firm or any lawyer at that</p> <p>15 firm represent any entity in which you have a</p> <p>16 direct or indirect ownership interest?</p> <p>17 A. No. Not that I'm aware of, no.</p> <p>18 Q. I'm sorry, one second.</p> <p>19 Does that firm or any lawyer at that</p> <p>20 firm represent any entity that you directly or</p> <p>21 indirectly control?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. Do you recall asking Isaac Leventon</p> <p>24 for the contact information for the – for the</p> <p>25 lawyers at Baker & McKenzie?</p>	<p>Page 137</p> <p>1 J. DONDERO</p> <p>2 A. I – I don't – I don't – it might</p> <p>3 have been for part of the shared defense, mutual</p> <p>4 defense, whatever, agreement, but that's –</p> <p>5 that's the only reason why I would have asked for</p> <p>6 it.</p> <p>7 Q. Okay. What's your understanding as</p> <p>8 to – (audio malfunction) –</p> <p>9 (Clarification requested by the</p> <p>10 stenographer.)</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. – the parties to that mutual defense</p> <p>13 agreement that you just referred to, or shared</p> <p>14 defense?</p> <p>15 A. I – it's what I've testified</p> <p>16 already, Douglas Draper is coordinating it.</p> <p>17 I'm – I'm not sure whether the employees are on</p> <p>18 it or not, and I'm not sure if there's one</p> <p>19 employee group or two employee groups, and I'm</p> <p>20 not sure if one or both of them are part of that</p> <p>21 agreement or not.</p> <p>22 But the – in recent history, my only</p> <p>23 awareness of Baker McKenzie is with regard to</p> <p>24 representing the employees. That's my only</p> <p>25 awareness of that firm.</p>

<p>Page 138</p> <p>1 J. DONDERO</p> <p>2 Q. Have you ever spoken with an attorney</p> <p>3 at Baker McKenzie?</p> <p>4 A. No, I have not.</p> <p>5 MR. MORRIS: Okay. Can you put up</p> <p>6 Exhibit 18, please.</p> <p>7 (Dondero Deposition Exhibit 18</p> <p>8 marked.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. That's Mr. Leventon. Do I have that</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. And you're communicating with him on</p> <p>14 or around – after December 10th, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And if you could scroll down a</p> <p>17 little bit, right there, on December 22nd, you</p> <p>18 asked Mr. Leventon to send you the Baker &</p> <p>19 McKenzie contact person, right?</p> <p>20 A. Yes.</p> <p>21 Q. And if you scroll down a little bit.</p> <p>22 Did he ever send that to you?</p> <p>23 A. I'm sorry?</p> <p>24 Q. Did he ever send that to you?</p> <p>25 A. I don't know. I don't remember.</p>	<p>Page 139</p> <p>1 J. DONDERO</p> <p>2 Q. Why did you want the Baker & McKenzie</p> <p>3 contact information?</p> <p>4 A. I was trying to help Draper</p> <p>5 coordinate the mutual shared defense agreement.</p> <p>6 Q. And it was your intent and desire to</p> <p>7 have the Baker McKenzie firm participate in that</p> <p>8 agreement, right?</p> <p>9 A. No. I'm not a lawyer. The</p> <p>10 appropriateness of who's in that group under what</p> <p>11 circumstances representing who was a legal</p> <p>12 decision made by Draper.</p> <p>13 Q. So why didn't you just have Draper</p> <p>14 deal with this? Why did you deal with it?</p> <p>15 A. He was scurrying around, moving</p> <p>16 quickly, trying to get contact information for</p> <p>17 potential various different parties. I was just</p> <p>18 helping him get the contact information.</p> <p>19 Q. And you –</p> <p>20 MR. BONDS: I'm going to instruct you</p> <p>21 not to say anything relating to this as far as</p> <p>22 what he and Draper discussed.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. You were aware at the time that you</p> <p>25 asked for the Baker & McKenzie contact</p>
<p>Page 140</p> <p>1 J. DONDERO</p> <p>2 information that Baker & McKenzie was a law firm</p> <p>3 that – that employees were considering retaining</p> <p>4 for their personal interests, right?</p> <p>5 A. I knew they were involved with the</p> <p>6 employees. Whether – whether or when they were</p> <p>7 engaged and by which employee group and – I</p> <p>8 don't have details like that. I never did.</p> <p>9 Q. But the one thing that you did know,</p> <p>10 when you asked for the Baker & McKenzie contact</p> <p>11 information, is that Baker & McKenzie would be</p> <p>12 representing some group of Highland employees,</p> <p>13 correct?</p> <p>14 A. Or they might be. Or they were being</p> <p>15 interviewed at the time. I think they weren't</p> <p>16 formally engaged until later. I don't know these</p> <p>17 details and never did.</p> <p>18 MR. BONDS: I'm going to instruct the</p> <p>19 witness –</p> <p>20 THE WITNESS: I'm sorry, what?</p> <p>21 MR. BONDS: You need to stop.</p> <p>22 THE WITNESS: Okay.</p> <p>23 MR. MORRIS: Why is that? Please</p> <p>24 don't interrupt the witness. Assert the</p> <p>25 privilege if you want, direct him not to answer,</p>	<p>Page 141</p> <p>1 J. DONDERO</p> <p>2 but don't interrupt his answers.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Baker McKenzie was ultimately</p> <p>5 retained by some group of the debtor's employees,</p> <p>6 correct?</p> <p>7 A. I believe so.</p> <p>8 Q. Do you know how Baker McKenzie got</p> <p>9 their retainer, their retainer money?</p> <p>10 A. No idea.</p> <p>11 Q. Do you know – are you familiar with</p> <p>12 an entity called Gov Re?</p> <p>13 A. Yes.</p> <p>14 Q. What's Gov Re?</p> <p>15 A. It's a Bermuda-based reinsurance</p> <p>16 company.</p> <p>17 Q. Do you have an ownership interest in</p> <p>18 Gov Re?</p> <p>19 A. I don't know.</p> <p>20 Q. Do any – do any entities in which</p> <p>21 you have an interest have an ownership interest</p> <p>22 in Gov Re?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you know who controls Gov Re?</p> <p>25 A. I don't know.</p>

<p>Page 142</p> <p>1 J. DONDERO</p> <p>2 Q. Do you make any decisions on behalf</p> <p>3 of Gov Re?</p> <p>4 A. Not recently. Not in the last year.</p> <p>5 In prior years, I think I've helped them with</p> <p>6 investments and some strategy, but not recently.</p> <p>7 Q. Do you know whether Gov Re has made</p> <p>8 any payment to Baker & McKenzie in the last</p> <p>9 30 days?</p> <p>10 A. I have no idea.</p> <p>11 Q. Did you ever have a communication</p> <p>12 with anybody at any time in the last 30 days as</p> <p>13 to – (audio malfunction) –</p> <p>14 (Clarification requested by the</p> <p>15 stenographer.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. – as to whether Gov Re would pay</p> <p>18 money to Baker & McKenzie on behalf of some of</p> <p>19 the debtor's employees?</p> <p>20 A. Nope. No, I have no idea. I've</p> <p>21 never heard the daisy chain you're connecting.</p> <p>22 I've never heard it before.</p> <p>23 MR. MORRIS: Let's take a break. I</p> <p>24 might be finished. The time now is 2:32, or 1:32</p> <p>25 Central. Let's just come back sharply at 1:45,</p>	<p>Page 143</p> <p>1 J. DONDERO</p> <p>2 or 2:45.</p> <p>3 THE VIDEOGRAPHER: 1:32 p.m. Central</p> <p>4 Standard Time. We're off the record.</p> <p>5 (Recess taken, 1:32 p.m. to</p> <p>6 1:50 p.m. CST)</p> <p>7 THE VIDEOGRAPHER: 1:50 p.m. Central</p> <p>8 Standard Time. We're back on the record.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. I just have a few more minutes here.</p> <p>11 Going back to Gov Re, Mr. Dondero,</p> <p>12 are you on the board of that entity?</p> <p>13 A. I don't know.</p> <p>14 Q. Can you identify any person who sits</p> <p>15 on that board?</p> <p>16 A. No.</p> <p>17 Q. Do you know how many people sit on</p> <p>18 that board?</p> <p>19 A. No.</p> <p>20 Q. Do you have an understanding as to</p> <p>21 who makes decisions as to whether or not Gov Re</p> <p>22 should make – (audio malfunction) –</p> <p>23 (Clarification requested by the</p> <p>24 stenographer.)</p> <p>25 MR. MORRIS: Withdrawn.</p>
<p>Page 144</p> <p>1 J. DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Mr. Dondero, do you know who makes</p> <p>4 decisions on behalf of Gov Re as to whether or</p> <p>5 not to make payments on claims?</p> <p>6 A. No.</p> <p>7 Q. Did you ever participate in any</p> <p>8 decisions concerning the payment of claims made</p> <p>9 under a Gov Re policy?</p> <p>10 A. Not in five years. I think I was</p> <p>11 more involved five years ago, but I don't</p> <p>12 remember.</p> <p>13 Q. So you don't know if you sit on the</p> <p>14 board of directors, you don't know who makes</p> <p>15 decisions to pay claims, and you can't identify</p> <p>16 any members of the board; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And you don't know if you have</p> <p>19 an indirect or direct ownership interest in</p> <p>20 Gov Re; is that right?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. You've spent some time over</p> <p>23 the last months trying to put together a</p> <p>24 so-called pot plan; is that right?</p> <p>25 A. Yes.</p>	<p>Page 145</p> <p>1 J. DONDERO</p> <p>2 Q. Since December 10th, 2020, have you</p> <p>3 had any communications with any employee of the</p> <p>4 debtor concerning the pot plan?</p> <p>5 A. It's been a struggle to put together</p> <p>6 a pot plan. There's been an intentional block of</p> <p>7 any information, even assets, at Highland, so any</p> <p>8 pot plan is a stab in the dark for me when I put</p> <p>9 it forward, relative to current assets and likely</p> <p>10 outcome.</p> <p>11 But developing the pot plan has been</p> <p>12 something I think that's been applauded by the</p> <p>13 judge; at different times it's been encouraged by</p> <p>14 creditors, you know. But the only people – Dave</p> <p>15 Klos has helped with creating the model so that</p> <p>16 the model makes sense and adds up and is</p> <p>17 distributable. Dave Klos has been the person</p> <p>18 that I've accessed throughout the year regarding</p> <p>19 the pot plan.</p> <p>20 Q. And is it fair to say that you've</p> <p>21 communicated with Mr. Klos about the pot plan</p> <p>22 since December 10th, 2020?</p> <p>23 A. Probably. You know, to the extent</p> <p>24 that the pot plan has come up, been considered or</p> <p>25 distributed, yes.</p>

<p>Page 146</p> <p>1 J. DONDERO</p> <p>2 Q. Okay. Can you identify any other</p> <p>3 employees of the debtor with whom you've</p> <p>4 discussed the pot plan with since December 10th,</p> <p>5 2020?</p> <p>6 A. No.</p> <p>7 Q. Did you discuss it with</p> <p>8 Mr. Waterhouse?</p> <p>9 A. Mr. Waterhouse is Klos' direct</p> <p>10 supervisor. He probably had an awareness of it</p> <p>11 from those conversations. I don't recall. I</p> <p>12 mean, I don't – maybe – I mean, there have</p> <p>13 been, maybe, peripherally, not significant, I</p> <p>14 don't think, since the 16th, but I don't recall.</p> <p>15 Q. Did you ever get any balance sheets</p> <p>16 or financial information about MultiStrat from</p> <p>17 Scott Ellington?</p> <p>18 A. No.</p> <p>19 Q. Did you ever get any financial</p> <p>20 information, including balance sheets, concerning</p> <p>21 MultiStrat, from Isaac Leventon?</p> <p>22 A. No. They – I wouldn't believe that</p> <p>23 those guys would have it. I wouldn't even think</p> <p>24 to ask them for it. It wouldn't be – I don't</p> <p>25 think it's natural for them to have it. But no,</p>	<p>Page 147</p> <p>1 J. DONDERO</p> <p>2 I never did, no.</p> <p>3 MR. MORRIS: Okay. I have no further</p> <p>4 questions, just two points that I'd like to make.</p> <p>5 John, will you agree on behalf of</p> <p>6 Mr. Dondero to have him appear at Friday's</p> <p>7 hearing when the preliminary injunction takes</p> <p>8 place or do I need to serve a subpoena?</p> <p>9 MR. BONDS: No, we haven't made that</p> <p>10 decision yet.</p> <p>11 MR. MORRIS: Okay. Will you accept a</p> <p>12 subpoena on behalf of Mr. Dondero?</p> <p>13 MR. BONDS: Sure.</p> <p>14 MR. MORRIS: Okay. We'll get that</p> <p>15 over to you tomorrow.</p> <p>16 And then lastly, the deposition of</p> <p>17 Andrew Clubok has been adjourned to a date to be</p> <p>18 determined.</p> <p>19 MR. BONDS: Okay.</p> <p>20 MR. MORRIS: Thank you very much,</p> <p>21 all.</p> <p>22 MR. BONDS: Thanks.</p> <p>23 THE VIDEOGRAPHER: 1:56 p.m. –</p> <p>24 1:57 p.m. Central Standard Time. We're off the</p> <p>25 record. This concludes the deposition.</p>
<p>Page 148</p> <p>1 J. DONDERO</p> <p>2 (Time noted: 1:57 p.m. CST)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 _____</p> <p>9 JAMES D. DONDERO</p> <p>10</p> <p>11 Subscribed and sworn to before me this _____</p> <p>12 day of _____, 20____.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 149</p> <p>1</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 I, MICHAEL E. MILLER, FAPR, RDR, CRR,</p> <p>5 Notary Public in and for the State of Texas, do</p> <p>6 hereby certify:</p> <p>7 That JAMES D. DONDERO, the witness</p> <p>8 whose deposition is hereinbefore set forth, was</p> <p>9 duly sworn by me and that such deposition is a</p> <p>10 true record of the testimony given by such</p> <p>11 witness;</p> <p>12 That pursuant to FRCP Rule 30,</p> <p>13 signature of the witness was not requested by the</p> <p>14 witness or other party before the conclusion of</p> <p>15 the deposition;</p> <p>16 I further certify that I am not</p> <p>17 related to any of the parties to this action by</p> <p>18 blood or marriage; and that I am in no way</p> <p>19 interested in the outcome of this matter.</p> <p>20 IN WITNESS WHEREOF, I have hereunto</p> <p>21 set my hand on January 5, 2021.</p> <p>22</p> <p>23 _____</p> <p>24 MICHAEL E. MILLER, FAPR, RDR, CRR</p> <p>25 NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS</p>

<p>Page 150</p> <p>1</p> <p>2 ----- I N D E X -----</p> <p>3</p> <p>4 WITNESS: JAMES D. DONDERO</p> <p>5 EXAMINATION: PAGE</p> <p>6 BY MR. MORRIS 8</p> <p>7</p> <p>8</p> <p>9 ---- LITIGATION SUPPORT INDEX ---- PAGE</p> <p>10 Instruction Not To Answer 125</p> <p>11 Instruction Not To Answer 125</p> <p>12 Instruction Not To Answer 129</p> <p>13 Instruction Not To Answer 130</p> <p>14 Instruction Not To Answer 131</p> <p>15 Instruction Not To Answer 131</p> <p>16 Instruction Not To Answer 133</p> <p>17 Instruction Not To Answer 133</p> <p>18 Instruction Not To Answer 139</p> <p>19 Instruction Not To Answer 140</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 151</p> <p>1</p> <p>2 ---- E X H I B I T S ----</p> <p>3 EXHIBIT PAGE</p> <p>4 Exhibit 1 10/16/20 NexPoint Letter to 31</p> <p>5 Seery</p> <p>6 Exhibit 2 11/24/20 NexPoint Letter to 35</p> <p>7 Seery</p> <p>8 Exhibit 3 E-mail(s) 39</p> <p>9 Exhibit 4 Dondero Text Messages 62</p> <p>10 Exhibit 5 Request for Production of 67</p> <p>11 Documents</p> <p>12 Exhibit 6 Dondero Text Messages with 80</p> <p>13 Jason Rothstein</p> <p>14 Dondero_000022</p> <p>15 Exhibit 7 Dondero Text Messages with Tara 81</p> <p>16 Loiben</p> <p>17 Dondero_000013</p> <p>18 Exhibit 8 Skipped in Series</p> <p>19 Exhibit 9 Temporary Restraining Order 84</p> <p>20 Exhibit 10 12/23/20 Pachulski Letter to 85</p> <p>21 Lynn</p> <p>22 Exhibit 11 E-mail(s) 90</p> <p>23 Exhibit 12 12/24/20 Pachulski Letter to 93</p> <p>24 Wright</p> <p>25</p>
<p>Page 152</p> <p>1</p> <p>2 Exhibit 13 12/24/20 Pachulski Letter to 100</p> <p>3 Wright</p> <p>4 Exhibit 14 Skipped in Series</p> <p>5 Exhibit 15 E-mail(s) 112</p> <p>6 Exhibit 16 E-mail(s) 115</p> <p>7 Exhibit 17 Dondero Text Messages with 134</p> <p>8 Melissa Schroth</p> <p>9 Dondero_000014</p> <p>10 Exhibit 18 Dondero Text Messages with 138</p> <p>11 Isaac Leventon</p> <p>12 Dondero_000043</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 153</p> <p>1</p> <p>2 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>3 Case Name: IN RE HIGHLAND/HIGHLAND v. DONDERO</p> <p>4 Dep. Date: January 5, 2021</p> <p>5 Deponent: JAMES D. DONDERO</p> <p>6 Pg. Ln. Now Reads Should Read Reason</p> <p>7 _____</p> <p>8 _____</p> <p>9 _____</p> <p>10 _____</p> <p>11 _____</p> <p>12 _____</p> <p>13 _____</p> <p>14 _____</p> <p>15 _____</p> <p>16 _____</p> <p>17</p> <p>18</p> <p>19 _____</p> <p>20 Signature of Deponent</p> <p>21 SUBSCRIBED AND SWORN BEFORE ME</p> <p>22 THIS _____ DAY OF _____, 20____.</p> <p>23</p> <p>24 _____</p> <p>25 (Notary Public) MY COMMISSION EXPIRES: _____</p>

Index: 1..appearances

<div>1</div> <div>1 7:8 30:25 31:2,3 35:5 36:15,24 37:13 44:17</div> <div>10 60:18 85:4,5 87:20 108:23</div> <div>10:41 47:24 48:2</div> <div>10th 12:17 70:15 80:19,24 81:4 84:9 85:16,25 86:16,18 87:3,17 123:16 124:2 133:22 138:14 145:2, 22 146:4</div> <div>11 7:13 90:8,9</div> <div>11:16 48:3,4</div> <div>11th 81:5</div> <div>12 93:22,23</div> <div>12:35 107:24</div> <div>12:36 108:24 109:2</div> <div>12:45 107:25 108:5</div> <div>12:49 109:3,4</div> <div>12th 112:21</div> <div>13 100:5,6</div> <div>15 46:24 47:22 112:15,17</div> <div>16 115:2,3</div> <div>16th 31:18 99:24 111:16 115:9 116:17, 22 117:4 119:2 120:11 134:16,20 146:14</div> <div>17 134:6,7</div> <div>18 138:6,7</div> <div>18th 90:4 91:15 92:14</div> <div>19-34054-sgj11 7:14</div> <div>1:30 108:8,10</div> <div>1:32 142:24 143:3,5</div> <div>1:35 107:22</div> <div>1:45 107:25 142:25</div>	<div>1:50 143:6,7</div> <div>1:56 147:23</div> <div>1:57 147:24</div> <div>2</div> <div>2 34:24,25 36:15,25 37:14 44:17</div> <div>20 34:22 108:14</div> <div>20-03190-sgj 7:23</div> <div>2020 9:5 35:10 60:8, 18 69:10,18 70:15 85:16 94:16 133:22 145:2,22 146:5</div> <div>2021 6:4 7:10</div> <div>22nd 88:2 89:23 94:16 138:17</div> <div>23rd 100:12,15</div> <div>24 35:10</div> <div>25 80:3</div> <div>27th 60:24</div> <div>2:32 142:24</div> <div>2:45 143:2</div> <div>3</div> <div>3 38:24 39:2 70:9</div> <div>30 6:22 73:25 80:2 88:16 142:9,12</div> <div>300 76:11</div> <div>31st 9:5 124:21</div> <div>35-minute 108:14</div> <div>4</div> <div>4 62:12,14</div> <div>40 104:18</div> <div>5</div> <div>5 6:4 64:22 67:14,15</div> <div>5:26 62:20,24</div>	<div>5th 7:10</div> <div>6</div> <div>6 80:7,9</div> <div>6:25 85:25 87:3</div> <div>7</div> <div>7 81:17,18</div> <div>9</div> <div>9 84:3,5</div> <div>9:50 6:4</div> <div>9:52 7:10</div> <div>A</div> <div>a.m. 6:4 7:10 47:24 48:2,3,4</div> <div>ability 12:12 24:16, 18 26:11</div> <div>absolutely 91:8</div> <div>accept 147:11</div> <div>access 69:8 82:24</div> <div>accessed 145:18</div> <div>accommodate 47:16</div> <div>account 54:3 56:2 75:18 78:11,18</div> <div>accountant 128:21 133:19</div> <div>accounts 56:5</div> <div>ACIS 109:21</div> <div>acknowledge 26:2,9</div> <div>acknowledged 41:3</div> <div>acknowledging 23:20 25:21,23</div> <div>Act 63:5 104:18</div> <div>acting 114:9</div> <div>action 46:5 63:6,23</div>	<div>actions 63:22</div> <div>active 111:17</div> <div>activities 63:15</div> <div>activity 46:5</div> <div>acts 101:19 104:7</div> <div>acute 61:2</div> <div>acutely 61:8</div> <div>add 84:23</div> <div>addition 128:5</div> <div>address 39:24 40:3, 4 69:11,12,15,19,20, 22,23,24</div> <div>addresses 39:23</div> <div>adds 145:16</div> <div>adhered 26:6</div> <div>adjourned 147:17</div> <div>admissible 6:20</div> <div>admit 24:7</div> <div>advance 59:13 99:21</div> <div>advanced 99:15,23</div> <div>adversary 7:21 10:7 110:6 126:16</div> <div>adverse 89:17 109:11 110:23</div> <div>advice 92:8 129:14 130:5 131:17,24 132:2,18 133:4,14</div> <div>advise 132:16,25</div> <div>advised 36:23</div> <div>Advisers 63:4</div> <div>advisor 24:14,20,22 25:4 26:7 88:18,20</div> <div>advisor's 26:5</div> <div>advisors 14:14 17:18 18:23 19:5,7,8, 18,22 20:6,7,10,15, 21 22:12,21 23:12 24:10 29:22 35:21 54:18 56:24 58:23 94:9 98:5,10 100:21 102:25 104:20 106:13 107:2 111:24</div>	<div>Advisors' 19:24</div> <div>advisory 17:21 18:25</div> <div>affect 12:8</div> <div>affirmatively 24:5 25:21,23</div> <div>afield 125:5</div> <div>afternoon 43:16</div> <div>aggressively 105:25</div> <div>agree 6:24 7:3 17:3 55:3 107:9 110:23 147:5</div> <div>agreeing 23:20</div> <div>agreement 27:4 116:5 117:3,15 118:3,7,11 120:16 122:3 127:7 130:9,22 132:5 137:4,13,21 139:5,8</div> <div>agreements 17:16 27:14 28:7,19 29:12 30:6 101:12</div> <div>ahead 24:3 117:12 127:23</div> <div>alert 36:7 59:16</div> <div>allegations 36:24</div> <div>alleged 15:9,12</div> <div>aloud 89:3</div> <div>amalgamation 97:19</div> <div>amounts 63:19</div> <div>analysis 37:11,15</div> <div>Andrew 147:17</div> <div>answering 130:12, 13</div> <div>answers 141:2</div> <div>anticipation 72:6 74:11 78:21</div> <div>anymore 74:15</div> <div>apologize 19:12 65:11 125:15 129:25</div> <div>appearances 7:17</div>
---	---	--	---	--

<p>appears 41:21 92:17</p> <p>applauded 145:12</p> <p>appropriateness 139:10</p> <p>approval 9:11</p> <p>approved 95:24</p> <p>argue 25:19</p> <p>argument 99:21,24</p> <p>arguments 99:15 100:2</p> <p>articulated 46:10 50:11 63:11</p> <p>Asia 30:24</p> <p>asks 29:16</p> <p>aspect 13:13 88:25</p> <p>Assert 140:24</p> <p>asserted 124:20</p> <p>assertion 88:14 115:21</p> <p>asset 39:13</p> <p>assets 24:16 39:13 44:7 46:8 50:14 51:25 56:5 63:9 95:12 111:25 145:7,9</p> <p>assign 101:12</p> <p>assistant 68:16 83:19,20</p> <p>assistants 68:10,11</p> <p>association 6:8</p> <p>assume 49:13</p> <p>assure 125:7</p> <p>Attached 94:12</p> <p>attention 79:14 123:9</p> <p>attorney 138:2</p> <p>attorney-client 115:18</p> <p>attorneys' 7:17</p> <p>audio 11:2 16:7 57:6 68:23 82:6 96:7 111:20 116:6 135:25</p>	<p>137:8 142:13 143:22</p> <p>authority 14:3 28:25 34:15</p> <p>authorization 35:25</p> <p>authorize 33:3 35:20 95:16,18</p> <p>authorized 42:6,14 103:18 104:9,14</p> <p>Avaya 89:24 90:15 91:16 92:15</p> <p>AVYA 43:19</p> <p>aware 9:3,13,18 12:7,10,17 13:14 14:17,20,23 17:14 21:13 26:15 27:19,22 35:16 36:2,12 48:9 52:11 53:6 58:24,25 59:11 60:15,25 61:8, 11,14 62:2,4 64:7 67:23 74:17,19 94:19,21 96:5,18,19 98:13 99:13 101:9,11 110:9,18 111:5 124:19 136:17,22 139:24</p> <p>awareness 61:3 113:16 137:23,25 146:10</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 44:11 47:21 48:5,22 54:9,11 83:23 85:12,20 87:19 90:3 100:9 101:13 109:5,14 116:14 122:20 134:15 142:25 143:8,11</p> <p>background 95:4</p> <p>bad 99:8 101:19 104:7</p> <p>Baker 136:9,25 137:23 138:3,18 139:2,7,25 140:2,10, 11 141:4,8 142:8,18</p> <p>balance 146:15,20</p> <p>bank 69:17</p>	<p>bankruptcy 7:15 10:7,19 26:5 59:5 95:8 99:16 106:2</p> <p>based 29:20 80:3 88:16 102:12 110:22</p> <p>basis 79:3,8,16,21 88:8,13,25 92:24 127:8,16,18</p> <p>basket 39:23</p> <p>beginning 24:13 88:2 101:13 119:20</p> <p>begins 39:8</p> <p>behalf 9:15 28:5 35:21 56:24,25 58:23 61:12 96:22 98:10 100:21 106:13,18,25 111:20 114:9,10 119:17 142:2,18 144:4 147:5,12</p> <p>believed 95:21</p> <p>believes 33:22</p> <p>bell 90:2 91:15 92:13</p> <p>beneficial 20:5 27:5 28:14,15,18,23 29:11 30:5,10 46:7 50:10 56:3 63:21,24 97:3,9</p> <p>benefit 50:13 73:4 105:21</p> <p>Bermuda-based 141:15</p> <p>bit 41:4 62:17 81:21 82:3 84:12 87:21 90:20 94:17 98:15 99:4 100:18 118:14 134:10 138:17,21</p> <p>block 49:12 145:6</p> <p>blocking 55:22</p> <p>board 13:10 14:13 117:5 143:12,15,18 144:14,16</p> <p>bodies 37:5</p> <p>bona 46:5 89:12</p> <p>Bonds 7:2,20 9:20, 23 10:2,10,16 11:15, 22 13:2 14:5 15:6 16:23 17:10 18:6</p>	<p>21:7 22:24 24:11 25:7 27:16,25 28:8, 21 29:14,24 30:8,18 32:9,21 34:9 35:23 36:16 37:2 38:17,22 42:7 43:7 44:18 45:25 49:17 50:7 51:12 52:3,21 54:15 55:2,23 56:17 57:14 60:19 66:24 67:24 68:10 71:11,20 73:7 75:14 76:4,23 78:5, 12 79:11,18 82:23 86:10 88:10 91:18 92:16 96:14 98:6 99:18 101:2 103:22 105:4,8 106:22 108:6,18 110:2,8 115:12,16 117:16,21 121:13,17,23 122:5,9 123:3,15,19,25 125:4,9,14,21 126:13 127:13,17,21,24 128:15 129:11,18,24 130:18,23 131:14,21 132:9,15,25 133:11 134:2 139:20 140:18, 21 147:9,13,19,22</p> <p>bottom 39:6,8 62:20 90:12,14 115:6 116:14</p> <p>bought 71:25 73:4 74:7 76:21</p> <p>breach 27:4,13 33:22 36:3,6,10 107:7</p> <p>breaches 61:4</p> <p>break 46:19,23 107:23 108:15,17 142:23</p> <p>brought 111:17,19 114:14</p> <p>bucket 40:2</p> <p>bunch 24:17 79:2</p> <p>business 46:8,9,10 50:13 52:19 55:5,25 56:7,14 57:12 58:21 59:20 60:16 63:10 91:3,9 116:2,24 128:7</p> <p>businesses 76:13</p>	<hr/> <p style="text-align: center;">C</p> <hr/> <p>C-SUITE 33:25</p> <p>calendar 111:15 112:3</p> <p>call 32:18 47:11 121:21,25 122:7 123:24</p> <p>called 22:7 70:3 111:17 131:5 141:12</p> <p>calls 46:17 48:14 120:20 123:3,15,18 124:5</p> <p>canceled 43:18</p> <p>CANTY 35:3,6</p> <p>capabilities 71:11</p> <p>capability 23:24 24:19 25:16</p> <p>capable 24:23</p> <p>capacity 10:3,6,13, 18 30:3,4 136:12</p> <p>Capital 7:12 8:18 18:22 21:16 22:8 53:15</p> <p>capture 50:18</p> <p>care 15:15 79:5,6</p> <p>careful 62:25</p> <p>carefully 123:11</p> <p>cares 47:18 79:4</p> <p>case 6:23 7:12,13,21 10:19 14:4 40:8 52:22 74:11,12 125:25</p> <p>caused 22:21 24:10</p> <p>cease 106:19 107:2</p> <p>ceased 69:15</p> <p>cede 52:17,18</p> <p>Central 7:10 47:24 107:25 108:8,25 109:5 142:25 143:3,7 147:24</p> <p>CEO 14:21</p>
---	--	--	---	--

Index: cetera..day

cetera 24:20 99:10	29:13 30:7 38:10,14 40:24 50:6 54:5 63:16 90:16 91:17 92:15 93:7,12 100:25 104:12 105:15 107:4, 20	compliant 68:9	24:8,15 25:12 26:3,4, 16,18,24 102:7,25	counteroffer 103:3, 5
chain 142:21		complicated 77:16		couple 46:17 69:9 74:15 90:3 95:5 112:3 120:22
championed 95:19		computer 82:24	control 10:12 18:20 20:7 97:24 127:5 129:6 131:10 136:21	court 6:15 7:15,19 13:18 25:20 48:11 59:16,20,23 94:24 95:8,10 99:16,20 106:2 124:21 125:24
change 78:3,6,17		concerned 114:24	controlled 114:11	Court's 14:3,9 48:15 124:9
changed 78:20 79:10,24	closing 90:2 91:15 92:13	concludes 147:25	controls 97:7,13 129:17 131:20 141:24	courtroom 6:21
changing 77:25	Clubok 147:17	conclusion 28:23 29:8,17 30:21 34:17, 20	conversation 32:16 52:6 57:5,20 58:15 59:9,17	COVID-19 6:10
Chapter 7:13	collateralized 16:18 17:4	conduct 13:16	conversations 32:13 73:19 111:6 146:11	Covitz 39:8,11,12 40:22
char- 97:11		conference 8:19 123:3,14	conveyed 58:12	Covitz's 41:11,20,24
charge 104:15	combined 98:22	conferred 121:10,18	convinced 61:14	creating 145:15
charitable 97:12	commenced 110:6	confusing 98:17	coordinate 114:9 117:7 119:16 120:3 139:5	credit 74:3
check 44:12 121:24	comment 36:18	conjunction 37:20	coordinating 137:16	creditors 145:14
chief 33:22,23 34:2, 4,18 37:12,17 53:14 95:19 105:18	comments 50:24	connecting 142:21	coordination 114:12,16,20	CRO 14:21
Christmas 90:24	commercial 103:11, 12	connection 10:18, 25 11:8 15:3 59:5 64:18 67:25 94:6	copy 12:22 41:20 93:14,18	CST 6:4 48:3 109:3 143:6
circumstances 104:16 139:11	commit 106:17,25	consent 9:11 42:22 43:5 75:13 76:22 135:16	correct 9:19 10:3 13:3 14:18,24 18:5, 11 19:2,19 23:17 27:24 28:20 42:15 48:20 51:8,16 56:22 57:3 66:23 67:6 77:5 87:7,8,15,18 89:24 120:14 128:2 130:10 133:25 134:20 140:13 141:6 144:17, 21	current 145:9
circumvented 29:2	common 116:6,9	consideration 102:13	correctly 113:11 118:23	custody 127:5
Civil 6:22	communicate 47:5 132:21 133:7	considerations 103:24	counsel 8:14 32:17 37:21 47:6 65:2,7,12, 22,24 95:20 100:22 120:3,18,20 121:10, 11,17,18 123:3,15 124:16	D
claim 116:3	communicated 62:8 145:21	considered 30:10, 13 145:24	counsel's 130:5	D.C. 65:6,7,12
claims 144:5,8,15	communicating 138:13	consistent 35:24 50:4	counselor's 129:14 131:17,24 132:18 133:4,14	DAF 44:5 97:6,7,10, 20,24 98:16,22
clarification 11:3 16:9 57:7 68:25 82:7 96:8 111:21 116:7 136:3 137:9 142:14 143:23	communication 142:11	constrain 13:15		daisy 142:21
class 46:5 63:6	communications 70:10 145:3	contact 28:16 113:10 117:6 136:24 138:19 139:3,16,18,25 140:10		Dallas 7:16
clear 46:2 56:3 115:22	company 22:2 141:16	contained 96:6		dark 145:8
CLO 17:3,9 24:16 25:12 27:13,24 28:7, 19 29:11 30:6 39:12, 13 44:7 51:24 94:23 95:7,11 96:23 97:3, 13,18,24 98:11,20,21 99:14 101:12 102:7, 24 103:21 106:14,21 111:25	competently 12:11	contended 27:3,13		date 7:9 26:19 82:3,4 85:23 86:5 124:6,7 147:17
CLO's 107:16	complaint 110:15	contention 25:14 27:20,22 89:13		dated 31:17 35:9 94:16
CLOS 16:22 22:22 23:16,21,25 24:9,23 25:17 26:11,16 27:3, 9,23 28:2,6,13,17,20	complete 71:22 82:25 84:24 124:17	context 31:14		Dave 145:14,17
	completed 70:19	continued 36:2		day 41:4 48:14,18 54:11 59:14 60:13 100:12
	completeness 70:25	contract 27:24 30:17		
	complex 46:12	contracts 17:7,15		
	compliance 26:3 33:22,23 34:2,4,8,18, 21 36:4 37:4,12,18 53:14 56:4 61:13 95:20 105:18			

Index: days..due

days 52:25 69:9 80:2, 3 90:3,23 99:16 142:9,12	138:14,17 145:2,22 146:4	desire 60:9 63:8 139:6	discussed 31:8 111:3 139:22 146:4	64:1 65:1 66:1 67:1, 10,15,19 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1,9 81:1,18 82:1,12 83:1 84:1,5 85:1,5 86:1 87:1 88:1,13 89:1 90:1,9 91:1 92:1,8 93:1,23 94:1 95:1 96:1 97:1 98:1 99:1 100:1,6 101:1 102:1 103:1 104:1 105:1 106:1 107:1,24 108:1,15 109:1,8 110:1 111:1 112:1,17 113:1,24 114:1 115:1,3,18,23 116:1, 10,11 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1,19 127:1 128:1,3,18 129:1 130:1,4 131:1,24 132:1 133:1 134:1,7 135:1 136:1 137:1 138:1,7 139:1 140:1 141:1 142:1 143:1,11 144:1,3 145:1 146:1 147:1,6,12
de 63:19	decide 25:20 45:21 60:23 91:23 102:19 124:16	desires 52:16	discussing 112:7	Dondero's 115:24 127:11
deal 139:14	decided 72:8,14,21	desist 106:19 107:2	discussion 135:8	dormant 69:25
debtor 7:13 8:15 9:3 12:18 15:15 16:7,17, 21 17:6,7 22:23 23:16,20,22,23,24 24:8 25:6,9,11,15,16 26:17 27:4,13,23 28:20 29:12 30:7 38:10 39:14,16 40:11,18 43:19 50:13 53:16 61:13 63:5 66:4,7,10,13,20,23 67:23 70:11 71:25 73:4 74:8 75:5,20,23 76:21 77:5,7,11,17, 20,22,24 78:22 83:17 95:11 96:11 100:2, 22,24 101:11 102:23 103:20 104:11 105:3, 14 106:20 107:3,16, 19,20 110:6,11,19,24 115:25 122:3 127:8 128:8,9,25 130:10,22 132:6,24 133:8,20 135:13 145:4 146:3	decision 28:25 73:5, 10,20,22,23 102:2,4, 14 139:12 147:10	desk 49:13 52:8 80:20 81:3,10,14 86:6,20 87:3	disposed 72:8 73:5 75:2 85:15	Douglas 114:14 115:17 117:2 137:16
debtor's 9:7 11:2,9, 13,20 13:20 14:14,21 15:4,13 42:22 43:5 70:3 75:13 76:22 77:21 93:6,12 102:3 109:12,17,20,24 126:22 127:4,10 128:6 135:16 141:5 142:19	decisions 142:2 143:21 144:4,8,15	destroy 72:14 76:25	disposal 72:5,16,18 74:21 75:6 81:8 86:15 87:10	dozen 126:24
debtors 9:15	declaration 15:2,10, 12,22	destroyed 72:13	disposing 75:9	drafting 118:2,6
decade 66:8	declare 28:6	details 70:17 95:14 106:4,5 134:17 135:2 140:8,17	dispute 88:8,13	drafts 122:8
December 9:5 12:17 59:5 60:18 70:15 71:24 80:19,24 81:4, 5 84:9 85:16,25 86:16,18 87:3,17 88:2 89:23 91:15 92:14 94:16 99:24 100:12 101:13 111:16 112:21 115:9 116:17,22 119:2 120:11 123:16 124:2, 21 133:22 134:16,20	default 23:23 24:18 25:15 26:4 27:23 28:7	determine 125:24	dissuaded 103:10	Draper 114:14 115:8, 13,17 116:17,22 117:2 118:12 137:16 139:4,12,13,22
	defend 9:20	determined 147:18	distancing 6:11	draw 28:22
	defense 111:10 114:15 117:3,14 118:3,6,10,11 120:3, 8,16 122:2,3 137:3,4, 12,14 139:5	developing 145:11	distributable 145:17	drawer 80:20
	defer 52:16	differently 88:23	distributed 145:25	drew 34:18
	definable 46:9	difficult 31:7 123:9	District 7:15	drove 36:4
	delegate 68:11	direct 18:3 19:17 28:16 97:2 128:13 136:16 140:25 144:19 146:9	divided 120:22	drugs 12:4
	delegated 68:9 70:20	directed 33:16 38:4 42:15 43:20 45:24	Division 7:16	due 6:10 99:19
	delivered 70:25 124:13,21	direction 23:3 38:15 40:23 90:15 104:25 114:13,23	document 31:14,22 32:2,3 58:17 64:17 67:14,20,24 70:3,18 83:3,10,18 84:14 87:23 100:19 107:15 128:4	
	demand 102:13	directions 119:21 120:7	documents 31:10, 11 67:25 68:7 69:5 70:21,24 71:9,18 83:7,14 124:19 126:22,25 127:3,11 128:10 135:6	
	denied 94:24 99:17	directly 13:11 54:4 55:16,19 59:25 96:2 106:4 124:15 129:5,7 131:7,10 136:20	dollars 101:21	
	depend 52:23	directors 144:14	dondero 7:9 8:1,3,10 9:1 10:1 11:1,7 12:1 13:1 14:1 15:1 16:1, 15 17:1 18:1 19:1 20:1 21:1 22:1 23:1,9 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1, 3,6 32:1 33:1 34:1,25 35:1 36:1 37:1 38:1 39:1,2 40:1 41:1 42:1 43:1 44:1 45:1,3 46:1 47:1,2 48:1,7 49:1 50:1 51:1,16 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1,14 63:1	
	depo 9:9	disagree 88:15,25		
	deposition 6:13 7:9, 22 9:16 10:22,25 11:8 31:3 34:25 39:2 47:7,19 48:10 62:14 67:15 77:19 80:9 81:18 84:5 85:5 90:9 92:6 93:23 100:6 108:8 112:17 115:3 134:7 138:7 147:16, 25	disagreement 102:6		
	describe 39:25 76:5	disapproval 60:20		
		disbelieve 86:8		
		discernible 46:9		
		discovery 82:10,15 113:25 114:5		
		discuss 32:5 34:12 105:12 107:18 118:9 132:12 146:7		

Dugaboy 125:2,13, 19,23 126:5,11,15,20 127:7 129:8,10,17 130:9,21 132:14,24 133:9,24 134:17,25 135:10,13,17,24 duly 8:4 Dustin 59:2,8,14,15 <hr/> <p style="text-align: center;">E</p> <hr/> e-mail 39:5,8,23 40:3,4,22 41:2,4,11, 19,20,24 42:5,18,23 43:6,23 45:6,12 48:25 50:4 51:9,17 52:2 53:9,11 58:17 60:21 61:10,15 69:8, 11,12,14,16,19,23 85:18 90:14 114:5 115:8 118:25 119:7, 25 120:10 124:8 e-mails 40:2 45:8 52:4 64:14 89:9 107:13 117:6 earlier 64:3,25 65:19 84:17 99:16 123:21 early 71:24 Eastern 107:25 economic 18:4 19:18 97:3 effectuate 53:3,7 55:22 57:13 60:10 Ellington 47:4 60:5 65:18,21 66:3,9,22 67:7 74:7 78:3,9,17, 25 79:9,23 83:2,5 111:4 112:8,11 113:8 114:8,17 115:23,24 116:10 117:9 118:2, 18 119:2,8,15 120:10,15,23,25 122:22 123:2,12,14, 19,24 126:24 127:9 132:14 135:22 146:17 Ellington's 74:9 122:15 123:6 Ellis 9:23 10:2,10,17 67:24 68:10 71:12	82:23 121:17 123:4, 15,19,25 employed 39:15 66:3,7 68:19 70:11 83:17 128:25 133:8, 20 employee 39:15,16 47:4,10 77:4,7,9 107:14,19 120:22 121:3,5,8,11,19 122:4 123:8 137:19 140:7 145:3 employees 13:12 25:24 40:18 47:15 68:10 76:14 79:23 89:22 92:25 93:5,10, 15,18 116:25 137:17, 24 140:3,6,12 141:5 142:19 146:3 employees' 120:18, 20 employer 66:10,13, 23 encourage 105:24 encouraged 95:19 96:3 145:13 encouraging 104:14 end 16:12 24:13 54:11 69:10 70:15 91:21 92:5 126:19 ended 114:22 engaged 117:8 140:7,16 engaging 103:8 enlarge 90:19 enter 9:8 entered 13:19 14:10 15:19 111:2 113:14 114:18 entirety 58:11 entities 20:17 94:22 95:6 99:14,25 103:19 106:18 114:10 119:17 126:6 141:20 entitled 115:20 130:24	entity 10:11 18:20 20:8 22:7 39:15 65:13 98:22 131:5 136:15,20 141:12 143:12 entry 16:6 equity 40:15 41:12, 15,17,24 error 89:20 estate 74:14 101:25 ethic 71:10 events 16:5 exact 21:23 117:11 EXAMINATION 8:7 exchange 107:13 execs 79:2 execute 42:5,19,23 61:17 93:2 executed 43:20 executing 43:10 45:23 executive 76:8 133:19 executives 34:2 72:25 78:20 104:15 105:17,18 exhibit 30:25 31:2,3 34:24,25 35:5 36:15, 24,25 37:13,14 38:24 39:2 44:17 48:22 62:12,14 64:22 67:14,15 80:7,9 81:17,18 84:3,5 85:4, 5 87:20 90:8,9 93:22, 23 94:13 100:5,6,9 112:15,17 115:2,3 134:6,7 138:6,7 exhibits 44:10,16 experience 88:16 expertise 121:8 explain 58:20 explanation 51:23 57:12 explicit 9:10	expressed 52:9 60:20 63:8 extent 21:7 22:24 31:12 145:23 external 37:21 extort 102:8 extra 61:6 eyes 90:18 <hr/> <p style="text-align: center;">F</p> <hr/> face 89:20 faced 61:18 facilitation 102:10 fact 38:12 92:21 facts 56:11,14 66:18, 21 factual 29:20 failed 135:22 fair 18:20 19:5,9 20:7 33:10 34:19 35:18 40:21 67:5 86:14 98:25 109:10 113:24 145:20 familiar 17:19 18:23 22:7 31:21,23 131:4 141:11 fashion 26:9 February 91:2 Federal 6:22 feel 61:9 fees 101:21,24 fide 46:5 89:12 figure 49:25 50:22 file 109:18 filed 94:23 96:20 110:15 filing 95:16,18 financial 33:24 125:2,13,20 126:12, 21 132:13,23 133:10, 24 135:10,14,17,24 146:16,19	financials 126:5 find 94:13 fine 47:2,13 80:6 129:24 finished 19:13 142:24 firm 9:23 10:5,10,17 17:19,21 18:23,25 19:4 67:24 71:2 111:20 116:2 124:13 136:8,11,12,14,15, 19,20 137:25 139:7 140:2 firms 10:2 fit 103:2 follow 129:13,22 130:4 131:16,23,25 132:17 133:3,13 form 11:15,22 13:2 14:5 15:6 16:23 17:10 18:6 24:11 25:7 26:8 27:16,25 28:8,21 29:14,24 30:8,18 32:9,21 34:9 35:23 36:16 37:2 38:17,22 42:7 43:7 44:18 45:25 49:17 50:7 52:3,21 54:15 55:2,23 56:17 57:14 60:19 66:24 71:20 73:7 75:14 76:4,23 78:5,12 79:11 91:18 92:16 96:15 98:6 99:18 101:2 103:22 106:22 110:2,8 formal 102:17 formally 48:16 140:16 forming 120:7 forward 51:2 103:11 108:19 118:18 145:9 forwarded 120:10 forwards 92:22 115:23 found 26:12 frames 117:11 Friday 90:4 91:15
---	--	---	--	---

Index: Friday's...instructing

92:14 Friday's 147:6 front 91:7 full 31:14 69:7 87:25 fully 117:8 functional 117:9 functioning 114:15 fund 18:22 19:4,7,18, 21,24 20:6,7,10,15, 21,23 21:2,5,12,17, 20,21 22:3,4,11,15, 18 46:12 103:20 104:12 107:16 fundamental 103:9 funds 20:11,18,20 21:10 22:21 23:13,15 24:10 29:21 35:21 41:17 49:14 50:12 56:25 58:23 63:5 94:7 98:5,10 100:22 104:23 106:13 107:2 111:24 future 101:24 fuzzy 90:18	generally 18:21 31:23 32:10 33:6 40:15 44:19,23,24 67:19 82:20 92:9 103:17 gentlemen 6:7 girls 83:23 give 24:9 30:21 35:6, 24 41:22 51:23 69:4, 6 75:23 82:18 92:7 101:18 104:25 122:11 126:14 127:17 giving 40:22 Gmail 69:22,24 go-between 60:5 111:7 good 6:6 8:10 23:22 24:22 26:10 125:3, 13,19 126:11 127:8, 16 131:5,8,11,13,20 132:5,14,23 133:10 135:10,13,17,24 gotcha 31:9 Gov 141:12,14,18,22, 24 142:3,7,17 143:11,21 144:4,9,20 Grant 97:8 group 120:19,22 121:2 123:8 137:19 139:10 140:7,12 141:5 groups 120:23,24 121:3,5,9,12,19 137:19 guess 65:25 72:12 87:20 111:17 guided 108:16 guiding 23:5 guy 50:21 guys 46:16 82:23 108:23 146:23	handles 78:14 handling 47:11 hands 127:12 happen 49:20 happened 72:4 87:17 99:9 happening 50:2 90:17 happy 32:7 46:22 116:12 Harbourvest 97:6, 20 98:17 109:24 hard 49:22 105:20 HCLOF 98:18 HCMFA 89:22 92:25 93:5,11,15,19 HCMLP 69:11 head 63:14 101:18 hear 8:11 20:14 48:7 105:9 108:2 109:7 125:14 heard 7:5 68:5 136:8 142:21,22 hearing 11:13,20 13:20,22,25 147:7 held 13:19 39:24 40:23 41:17 53:18 helped 142:5 145:15 helpful 32:8 helping 114:8 139:18 HFAM 44:5 54:20 High- 39:14 Highland 7:12 8:18 9:16 10:7 13:11 18:22 20:21 21:2,5 44:6 47:3,10,14 53:15 65:22 68:21 69:11,19 76:9,12 79:23 102:11 116:25 128:22 140:12 145:7 Highland's 76:10 highlight 49:23	historic 72:10 historically 40:6 46:6 65:23 72:9 history 137:22 hitting 49:12 hold 21:4 22:6,17 50:19 88:4 91:19 Holdco 94:23 95:7 96:23 97:3,13,18,24 98:11,20,21 99:14 106:14 holders 27:5 46:7 50:10 holding 22:2 104:6 hundred 54:21 Hunter 39:8,12 41:23 52:8	including 47:4 146:20 Income 20:21 21:2,5 incredibly 63:16 indemnities 61:7 independent 13:10 independently 62:3 indirect 18:3 19:17 97:2 136:16 144:19 indirectly 55:18 129:5,7 131:7,11 136:21 individual 10:3,6,13, 18 56:5 136:12 individually 120:25 individuals 46:13 inferred 26:13 information 117:6 136:24 139:3,16,18 140:2,11 145:7 146:16,20 informed 37:4 38:11, 13 90:4 initiate 103:19 104:11 105:2,13 106:20 initiating 100:23 injunction 11:10,14, 21 60:3 68:2 84:25 127:25 147:7 injunctive 110:16 input 54:10 institutions 33:24 instruct 93:5,10 98:4 106:7,9 125:9,17 127:13 129:11,18 130:18 131:14,21 133:11 139:20 140:18 instructed 41:25 44:6 56:23 89:22 92:25 98:11 106:14 127:3 instructing 9:4
<hr/> G <hr/>			<hr/> I <hr/>	
garbage 72:19,22 74:2 76:21 80:16,25 81:11,14 86:15 Gatekeeper 39:24 40:5,14 gatekeeper@hcmlp.com 39:18 Gates 32:14,17 58:20 94:4,5,14,15 95:7 98:11 100:12,21 106:9,14 111:19 112:5 gave 21:25 35:25 42:4,12 58:5 69:8 82:22 general 13:7 14:14 18:13,17 19:24 46:14 52:23 65:22 71:3 82:21 95:20	<hr/> H <hr/> half 24:5 126:24		idea 32:19,22,23 55:10,14 91:7 114:6 124:23 127:16 141:10 142:10,20 ideally 46:20 identify 143:14 144:15 146:2 illegal 99:8 107:6 impede 93:6,11 implicit 34:17,20 Implicitly 9:9 implies 24:22 89:10 important 59:19 62:7 impose 95:11 inaccurate 89:6 inadvertently 49:25 inappropriate 52:12 61:24,25 63:16 99:9, 21 101:19 102:18 103:10 107:5 inches 16:12,13 included 40:4 61:14	

Index: instruction..made

42:18,22 43:5 instruction 41:23 42:4,13 135:23 instructions 44:9 49:7,10 68:23 69:4 82:18,21 89:8,15 instructs 130:16 insurance 61:6 intend 11:12,19,20 61:16 108:9 intended 45:15 intent 50:5,8 51:21 139:6 intentional 145:6 interest 10:12 18:4 19:18 52:9 88:19 97:22,24 107:8 116:3,9 118:3 119:18 136:16 141:17,21 144:19 interested 29:4 interests 46:7 50:9 61:5 63:7 89:18 105:23 109:11 110:23 111:11 114:20 116:24 140:4 interfere 93:6,11 interfered 128:10 interference 54:25 interfering 128:6 intermediate 29:3 internal 32:17 65:2, 7,12 interrupt 24:2 91:20 127:22 140:24 141:2 interruption 41:7 intervene 71:12 intervened 38:20 interviewed 140:15 invest 22:22 24:10 invested 23:15 investigated 36:9	investment 20:11, 17,20 24:24 25:22 88:18,20 97:19 investments 29:22 142:6 investors 50:9,10 52:9,16,20 61:5 63:7 88:19 89:18 101:7 102:9 104:16,17 105:21,23 107:8 involved 46:13 71:21 75:8 102:16 104:13 106:4,5 117:10 124:16 140:5 144:11 involvement 121:7 Isaac 118:5 136:23 146:21 issue 107:15 119:24 issued 49:11 93:4 issues 91:6 <hr/> J <hr/> J.P. 112:12 113:9 James 7:9 8:3 14:13 January 6:4 7:10 14:18 77:7 91:2 Jason 34:5 75:8 78:13 80:12 105:19 Jason's 86:22 Jefferies 54:4,8,11 jeopardy 63:6 Jerome 47:10 50:20, 21 51:4 Jim 24:24 49:14 67:10 80:5 115:18 117:22 127:2 130:24 job 124:18 130:2 Joe 40:16,20 52:7 54:10,12 57:18 John 8:13 9:20 23:2 35:3 108:7 121:21 125:16 126:17 127:23 129:22 147:5	joint 114:15 116:18, 23 117:20 118:3,6,10 119:14 120:15 122:2 Jones 8:14 judge 91:7,23,25 145:13 judgment 52:19 July 14:24 juncture 45:17 104:2 justification 56:14 58:16 60:17 <hr/> K <hr/> K&I 32:14,17 58:20 94:4,5,14,15 95:7 98:11 100:12,21 106:9,14 111:19 112:5 keeping 76:10 Kelly 83:20,24 key 26:6 kind 39:23 Klos 145:15,17,21 Klos' 146:9 knew 33:9 35:17 42:13 75:9,10 99:10 125:19 140:5 knowing 56:5 knowledge 26:19,25 27:12 28:16 36:21 55:20 56:13 64:6 76:22 93:9 98:9 106:12 130:8 132:4 <hr/> L <hr/> La 30:24 label 73:10 ladies 6:7 largest 97:21,23 lastly 147:16 late 46:18 108:14	law 10:5 136:8 140:2 lawsuit 110:14 lawsuits 63:6 lawyer 26:22 67:8 92:4 115:13,25 123:19,25 130:15 136:11,14,19 139:9 lawyers 9:4 25:20 68:5 70:25 71:11 114:9 116:23 119:16 136:25 leadership 114:8,19 118:22 119:4,9,23 120:2,12 122:17,23 learn 54:6 68:4 learned 32:2 38:8,20 52:25 91:14 92:13 learning 33:15 38:3 leave 76:14 98:24 108:15 led 16:6 left 76:8 80:19 81:3 legal 6:8 28:22 29:7, 16 30:21 37:18 92:8 103:24 117:18 139:11 legally 104:4 legwork 83:24 length 55:24 letter 9:4 31:17 32:6, 14 33:4,7,9,13,16,17 34:7,13 35:8,13,15, 20 36:4 37:25 38:3,5 85:8 94:3,12,14,15, 18,20 95:6 96:22 98:5,12 99:5 100:11, 15 103:16,19 104:10 106:10,15,18 letters 44:24,25 58:22 95:22,25 96:6, 18 103:8 level 98:23 Leventon 47:5 83:9, 12 118:5 126:25 127:9 132:22 135:22 136:23 138:10,18	146:21 liability 33:25 44:8 45:13,20,22 46:3,12, 14 61:3,19 105:19 liar 86:23 lift 26:23 lights 50:23 limited 70:14 limits 106:2 liquidation 74:12 liquidity 90:23 list 113:16 119:14 listed 35:22 listen 13:22 46:17 91:12 123:11 litigant 128:8 litigation 103:8 111:3 114:20 lived 34:22 loan 16:18 loaning 17:4 located 8:16 logged 69:25 logical 105:16 Loiben 68:13,14,15 long 46:23 53:18,20 longer 77:4 looked 44:11,16 85:18 lot 16:3 63:25 99:12 loud 44:4 62:24 LP 7:13 17:18 18:23 ludicrous 76:15 lunch 83:23 Lynn 112:21,25 113:3 115:18 118:14 <hr/> M <hr/> made 29:22 36:13
---	--	--	--	---

Index: majority..natty

55:11 56:3 64:25 73:5 88:14 95:7 101:11 102:2,4,14 126:23 133:23 139:12 142:7 144:8 147:9 majority 123:7 make 11:19 46:18 55:15 56:15 57:2 59:16 71:14,18 76:17 84:23 91:25 102:20 103:2 115:20 142:2 143:22 144:5 147:4 makes 91:8 143:21 144:3,14 145:16 making 52:19 malfunction 11:2 16:8 57:6 68:24 82:6 96:7 111:20 116:6 136:2 137:8 142:13 143:22 malicious 63:17 man 26:6 manage 16:21 17:8 20:11,17,21 23:13,25 24:9,16 25:17 26:11 managed 22:12,22 23:16 38:10 management 7:13 18:22 28:7,19 29:12 30:6 93:7,12 101:12, 24 102:24 Management's 8:18 manager 16:18 20:25 21:6,10,13,15, 25 22:4,16,19 29:21 36:8 46:12 52:14 54:2 100:24 102:7,8 103:20 104:5,6,12,22 105:14 106:21 107:4, 16,20 manager's 56:4 manages 23:21 39:12 managing 24:23 manifested 95:22 manner 87:10	marked 31:4 35:2 39:3 62:15 67:16 80:10 81:19 84:6 85:6 90:10 93:24 100:7 112:18 115:4 134:8 138:8 market 102:13 markets 90:23 Matt 40:13,20 45:17, 19 matter 29:20 41:12 59:6 64:18 94:6 132:22 matters 36:14 37:13 Mckenzie 136:9,25 137:23 138:3,19 139:2,7,25 140:2,10, 11 141:4,8 142:8,18 means 89:11 meant 49:13 Media 7:8 medication 12:5 meeting 116:18,23 119:14 meetings 48:13 Melissa 128:17 133:17 134:13,25 member 14:13 members 144:16 memorandum 37:11 memory 12:8 113:22 mentioned 49:14 64:25 65:18 117:14 128:5 message 45:16 62:9 81:23 82:11 126:18 messages 70:4 74:20 microphone 16:12 mid 77:9 middle 119:20 120:6 Mike 6:15 115:17	Miller 6:15 million 101:21 mind 124:6 mine 116:12 130:3 minimis 63:19 minimization 57:24 minutes 46:18,19,24 47:22 108:4,14,23 143:10 missed 20:12 43:2 misunderstood 51:21 model 145:15,16 moment 85:2 126:18 money 141:9 142:18 month 70:16 102:23 103:7 months 65:25 66:2 144:23 morning 6:6 8:10,16 9:8,12 64:25 113:10 Morris 6:25 7:3,5 8:9, 13 11:5,6,16,18,24 13:4 14:7 15:8 16:14, 16,24 17:2,11,13 18:7,9 21:11 23:2,11 24:12 25:2,8 27:18 28:3,10 29:6,9,15,18 30:2,11,14,22,24 31:5 32:11 33:2 34:11,23 35:4,7 36:5, 19 37:7 38:18,24 39:4 41:8,10 42:10, 11 43:8 44:20 46:22, 25 47:13,20,23 48:6, 21,24 49:18 50:15,22 51:2,5,7,14,15 52:13, 24 54:16,17 55:7 56:9,12,19 57:9,16 60:22 62:12,16,18 64:21,23 67:3,13,17 69:3 71:23 73:11 75:16 76:16 77:3 78:7,16 79:15,20 80:7,11 81:16,20,22 82:9 84:3,7 85:3,7, 20,22,24 86:12,13 88:12,21 90:7,11,13	91:11,13,23 92:7,11, 18 93:21 94:2 96:10, 21 98:8 99:22 100:4, 8,10 101:8 104:8 105:6,10,11 106:24 107:22 108:4,11,20 109:6 110:5,10 111:23 112:15,19 114:25 115:5,7,14,20 116:9,16 117:19,23, 24 121:15,16,21,25 122:7,11,13 125:6, 11,15 126:2,9,17 127:15,20,22 128:2, 16 129:13,16,21,25 130:7,15,20 131:3, 16,19,23 132:3,11, 17,20 133:3,6,13,16 134:5,9,12 136:5 137:11 138:5,9 139:23 140:23 141:3 142:16,23 143:9,25 144:2 147:3,11,14,20 motion 11:2,9,13 15:4,13,23 67:25 94:24 95:8,17 96:19 99:17 111:16,18,19 112:10 motions 96:19 111:15 112:3,9,13 mouth 16:13 move 29:6 30:11 56:9 74:13 80:2 91:11 105:24 moving 56:4 104:5 105:22 139:15 multipage 37:15 Multistrat 146:16,21 mutual 117:3,14 118:3,6,10 120:7,16 122:3 137:3,12 139:5 <hr/> N <hr/> nail 85:13 named 128:17 natural 146:25 necessarily 37:3	necessity 32:24 needed 114:12,18 132:24 Nexpoint 17:18,25 18:4,10,19 19:8 20:3, 10,16 21:16 22:3,7, 10,18 31:18 32:5 33:16 35:9 36:13,22 38:4 65:14 77:13 101:13 Nexpoint's 18:13,16 NHF 21:21 22:13 nonfinancial 29:3 nonfinancially 29:3 noninvestment 53:25 nonportfolio 54:2 nonsensical 59:21 nontrader 54:2 normal 103:11 Norris 59:2,8 Northern 7:15 noted 7:18 notice 75:23 80:4 108:7 notification 36:12 notwithstanding 48:15 November 35:10 60:8,24 NPA 89:22 92:25 93:5,10,15,18 number 75:17 76:9, 11,14 77:25 78:4,6, 10,18 126:10 numbers 20:4 79:10, 24 numerous 78:20 nuts 107:9 natty 90:21 107:10
--	--	--	--	--

Index: oath..primary

<p>O</p> <p>oath 12:14</p> <p>object 33:12,14 109:23 115:12 126:13</p> <p>objected 96:14 109:20</p> <p>objection 11:15,22 13:2 14:5 15:6 16:23 17:10 18:6 23:3 24:11 25:7 27:16,25 28:8,21 29:14,24 30:8,18 32:9,21 34:9 35:23 36:16 37:2 38:17,22 42:7 43:7 44:18 45:25 49:17 50:7 52:3,21 54:15 55:2,23 56:17 57:14 60:19 66:24 71:20 73:7 75:14 76:4,23 78:5,12 79:11 91:18 92:16 98:6 99:18 101:2 103:22 106:22 110:2,8 117:16 125:4 135:12</p> <p>obligation 16:19 36:7 127:10 128:9,11</p> <p>obligations 17:4 104:18</p> <p>obstructed 127:10</p> <p>obtained 12:18 110:11</p> <p>occur 75:12</p> <p>occurred 124:6</p> <p>October 31:18 77:9 109:15</p> <p>offer 101:12 102:3,5, 15,18,20</p> <p>office 69:9</p> <p>officer 33:22,24 34:3, 4,19 37:12,18 53:14 61:13 95:20 105:18</p> <p>offices 9:11,16 110:20 128:23</p> <p>operate 26:3 88:17</p>	<p>operating 56:7 62:3</p> <p>opinion 59:22 61:25</p> <p>Opportunities 22:11</p> <p>opportunity 22:18 102:24</p> <p>opposed 109:17</p> <p>opposition 15:22 16:4</p> <p>order 12:18,22,24 13:6,9,14,19 14:10 15:4,19 26:24 31:14 39:7 48:11,15 49:11 69:5 84:9,18,23 124:9</p> <p>orders 49:12 61:17</p> <p>ordinary 111:18</p> <p>organizations 97:12</p> <p>original 41:20</p> <p>outcome 145:10</p> <p>outstanding 89:19</p> <p>overrule 34:2</p> <p>oversee 68:6</p> <p>owned 38:9,14 114:10</p> <p>owner 30:10 97:3,9</p> <p>owners 20:6 28:14, 15,18,23 29:11 30:5 56:3 63:21,24</p> <p>ownership 10:12 18:4 19:18 74:13 97:21,23 136:16 141:17,21 144:19</p> <p>owns 18:16 129:10 131:13</p> <p>P</p> <p>p.m. 62:20 85:25 87:3 108:24 109:2,3,4 143:3,5,6,7 147:23, 24</p> <p>Pachulski 8:14 101:21</p> <p>paid 71:25 73:4 74:8</p>	<p>76:21 77:11,12 101:24</p> <p>paragraph 87:25 88:7,9,14,16 89:2</p> <p>part 23:19 43:2 59:22 69:9 72:5 120:19,23 121:2 137:3,20</p> <p>participate 9:15 11:12 118:2,5 123:2, 18 139:7 144:7</p> <p>participated 123:14</p> <p>participating 123:24</p> <p>parties 6:18 24:14 26:17 28:19 29:11 30:6,16 104:10 106:7 107:14 126:11 137:12 139:17</p> <p>partner 14:14 18:14, 17 19:25</p> <p>party 17:7 24:8,15 29:4 120:15,17 122:4 132:13</p> <p>past 102:23</p> <p>pause 7:4 95:10,11 111:25</p> <p>pay 74:15 79:14 142:17 144:15</p> <p>payment 101:23 142:8 144:8</p> <p>payments 144:5</p> <p>Pearson 40:13,14,17 41:3 43:15 45:18,19, 22</p> <p>pending 6:23</p> <p>people 28:24 42:4 76:12 79:9 105:22 107:11 143:17 145:14</p> <p>people's 117:5</p> <p>percent 54:21</p> <p>perfectly 46:25 80:6</p> <p>performance 88:19</p> <p>period 70:14 76:10</p> <p>peripherally 146:13</p>	<p>permanent 110:16</p> <p>permission 9:7 75:21 77:22</p> <p>person 70:10 83:21 135:9 138:19 143:14 145:17</p> <p>personal 33:24 45:20 46:3 55:20 61:3,18 67:8 69:23 75:18 78:10,18 105:19 109:11 110:23 111:11 115:24 128:21 140:4</p> <p>personally 12:21 17:15 38:20 67:11 71:15,17,21 126:23</p> <p>petition 26:19</p> <p>phone 8:25 32:18 60:9,16 69:8 71:24 72:4,6,11 73:3,5,14, 21 74:7,9,10,13,21, 24 75:3,4,6,9,10,17 76:9,11,14,19,20 77:11,12,18,21,25 78:4,6,10,15,18,21 79:10,24 80:15,20 81:10,13 82:24 85:13,15 86:5,15 87:2,10 123:24</p> <p>phone's 81:7</p> <p>phones 72:10,11,24 73:24 77:2 80:2</p> <p>picking 60:8,15</p> <p>piece 119:5,6</p> <p>place 48:10 147:8</p> <p>plan 74:13 109:17 144:24 145:4,6,8,11, 19,21,24 146:4</p> <p>planned 108:9</p> <p>play 83:5,12</p> <p>playing 31:9</p> <p>point 20:12 36:18 63:18 125:24</p> <p>points 13:17 147:4</p> <p>policy 144:9</p> <p>portfolio 16:17 20:25</p>	<p>21:5,10,13,15,24 22:4,16,19 29:21 36:8 52:14 100:24 104:22 105:14 107:4, 20</p> <p>portion 45:12</p> <p>position 36:18 40:11 53:19 102:12 103:23 116:12 125:7</p> <p>possession 126:22 127:4</p> <p>possibilities 97:17</p> <p>post 34:5,6,12 105:19 124:7</p> <p>post-restructured 41:16</p> <p>pot 144:24 145:4,6,8, 11,19,21,24 146:4</p> <p>potential 44:7 45:13, 22 46:3,11,14 139:17</p> <p>potentially 72:7</p> <p>power 33:19 105:7</p> <p>practice 6:11</p> <p>preferred 89:14</p> <p>preliminary 11:9,13, 21 68:2 110:16 147:7</p> <p>premises 9:5,8</p> <p>prepared 37:11</p> <p>prerequisites 103:9</p> <p>present 101:23</p> <p>president 18:10,19 19:21 20:6 29:21 104:19</p> <p>pressing 99:25</p> <p>prevent 12:11 49:25 50:5,8</p> <p>prevented 60:8,15 103:7</p> <p>prevents 128:6</p> <p>primarily 39:13 68:13 123:6</p> <p>primary 32:16 97:21</p>
---	---	---	---	---

Index: print..requested

print 71:4	providing 120:2	59:20	recycled 72:20	6,7,12 122:24 134:4
prior 60:17 94:23 104:7 124:6 142:5	provisions 26:6	reach 117:5	redefined 65:24	135:4,5,8 138:25 144:12
privilege 116:11 124:20 140:25	purpose 46:8,9,10 50:13 55:5,25 56:7 91:3,9	read 12:21 13:24 14:9 31:13 44:3 49:22 62:23 70:17 84:16 85:11 88:3,7, 10 89:2 99:6 113:11 118:23 128:4	reduction 57:24 58:2	remembered 63:14
privileged 115:19 124:17	pursuant 26:16 40:22 48:10 116:4	realizes 90:22	refer 17:24 19:4,7	remembering 60:12
problem 23:18 43:3	push 64:2	reason 10:16 14:8 63:10 66:18,21 67:4 86:8,25 87:5 90:25 102:22 135:21 137:5	reference 39:17 44:10 45:11 65:2	remind 61:9
procedure 6:22 75:11	pushed 95:19	reasonable 103:11, 12	referred 137:13	remote 6:19
proceed 7:6 41:9	pushing 91:4 105:20	reasons 52:5 63:3, 11,12 91:6	referring 22:14 25:5 44:13,16 45:2,5 65:5, 15	remotely 6:14,17 31:7
proceeding 7:21 10:8 110:7 126:16	put 30:25 31:11 34:23 38:24 62:12 64:21 80:7 81:16 84:3 85:3 90:7 92:4 93:21 100:4 103:12 112:15 114:25 117:3 134:5 138:5 144:23 145:5,8	recall 13:18 15:25 16:4 31:25 45:4 58:18,19 65:3 79:13 82:5,11 89:12 90:6 100:14,16,20 107:17, 21 114:4,7 116:21 122:25 123:5,22 124:3,4,7 136:23 146:11,14	reflect 108:13	remove 103:20 104:11 105:2,14 106:20 107:16
process 73:9,23 76:25 100:23 103:19 104:11 105:2,13 106:20 124:15	putting 63:5 103:10	receive 41:19	reflection 84:23	removed 110:19
produce 113:21 124:8,24 126:20 132:13 135:23	<hr/> Q <hr/>	received 85:11	refresh 98:15 113:22 119:14	removing 100:24 107:19
produced 70:22,23 71:8,19 114:4 115:17 124:23 132:24	question 19:14 20:13 23:8,18 24:6 27:11 28:12 42:9 46:20 51:13 65:9 74:18 79:19 86:11 88:11 89:5 91:10,12 92:12 94:25 98:2 105:5,9 114:2,24 116:20 121:14 123:11 125:10,18,22 126:3 127:14 129:12, 19 130:17,19,25 131:15,22 132:16 133:2,12 134:3	recent 137:22	refreshed 124:4	repeat 42:8,25 51:12 76:24 79:18 86:10 105:4 121:13
producing 83:6,13 135:13	questions 28:13 48:19 58:9 70:23 79:7 84:20 116:13 128:12 130:13 147:4	recently 123:22 126:7,8 142:4,6	regard 137:23	replace 104:5 107:3
production 70:4,19 83:3,10,18 121:22 122:2 124:12 133:9, 24 135:9,17	quickly 104:6 139:16	recess 48:2 109:2 143:5	registered 24:19 88:17,20	replacement 72:6
professional 24:24 25:22 53:25	quote 45:12 49:12 53:22 134:25	recipient 45:15	regulatorily 99:9	reported 54:9
prohibition 101:9	<hr/> R <hr/>	recipients 41:23 42:18,23 43:6	regulatory 32:24 33:23 34:7 36:3,6 37:5 61:4 107:7	reporter 6:15 7:19
promise 47:8	rarely 60:2,3	recollection 53:19 98:15 113:23 119:15 120:9 123:23 134:24	reimbursement 101:20	Reporting 6:9
prompted 134:22	rationale 50:17 56:15 57:12 58:4,21	record 6:13 7:18 47:3,25 48:5 50:25 84:24 91:22,25 108:13,25 109:5 129:23 143:4,8 147:25	reinsurance 141:15	reports 54:7
prosecution 111:10		recording 6:19	reject 102:2,4,5,15	represent 10:11,13 26:9 94:8 116:2 136:12,15,20
protect 101:6			rejected 99:25	representation 122:12
protocol 73:9			rejection 102:5,17	represented 67:10 95:6
provide 24:16 93:14 102:11 114:19 118:22 119:9 120:12 122:17,23 127:3,11 128:9			relates 115:17	representing 103:2 116:23 123:7 137:24 139:11 140:12
provided 57:12 93:17 102:23 116:4			relating 139:21	represents 10:2,6, 17 94:5
			relative 101:22 145:9	request 13:20 67:14 70:3,9,14 91:24 132:12 133:23
			releases 101:19	requested 11:3 16:9 57:7 68:25 82:7 95:15 96:8 111:21 116:7 126:6,7 135:25 136:3 137:9 142:14
			remedy 105:16	
			remember 13:17 23:6 60:3 73:17 75:7 84:20 101:14 111:14 112:2,5,6,7,10,11,14 114:21 116:19 119:3,	

Index: requesting..speculation

143:23	reversed 89:15	scroll 32:7 41:2,18 43:13,23 48:23 53:10 62:16 70:7 81:20 82:2 84:11 87:20 92:19 94:17 100:13, 18 112:24 115:5 118:13,17 134:9,10, 15 138:16,21	sending 33:3,6,12 37:24 99:5 103:15	similar 45:10
requesting 47:14	review 15:2 70:21,24	scurrying 139:15	senior 72:25 78:20 79:2	simply 91:14 92:12 123:13
requests 64:17 67:24 70:5,8 126:24	reviewing 83:6,13	search 68:6 69:5	sense 13:7 91:8 145:16	single 128:13
required 101:20	Richey 6:7	searching 83:6,13	sentence 43:2 88:15,24 89:2,7,10, 20	sir 8:17 33:20 35:11 85:9 94:17 126:3 130:11
reservation 101:4	Rick 6:7	sec 37:5 64:4 88:4	serve 112:12 147:8	sit 10:15 55:21 66:19 143:17 144:13
resignation 109:14	rightfully 63:20	secret 76:3,6	served 67:23	sits 143:14
resigned 40:11	rights 28:23 101:4	securities 38:9,14 40:23 53:23 54:4 58:3 63:18 90:5,15, 25 91:4,16	serves 16:7,17	situation 105:22
respect 14:3 36:14 37:13 47:6 99:19 114:19	rigorously 95:21 101:6	seek 42:21 43:4	services 77:12 116:4 127:7 130:9,21 132:5	Sky 41:12,15,24 42:19,23 43:9,10,19 89:24
respond 135:23	risk 28:24 57:23,24 58:2 63:6	seeking 15:16 38:8	set 36:14,24 37:13 54:3	so-called 144:24
responded 43:15,24	role 52:14 65:23 83:5,12 114:15 117:9,10	Seery 14:13,20 15:3, 9,12 24:24 25:15 31:18 35:9 36:14,23 38:8 41:25 42:6,15, 17 45:23 52:10 53:2, 6,22 54:23 55:5,21 56:7,15,25 57:5,6,11, 23 58:5,9,16 59:9,17, 25 60:9,12,16 61:7, 12,23 62:2,9,20 64:13 80:5 90:5 91:16 92:14 101:19 127:2	settle 89:10	social 6:11
responding 49:3	room 6:12,16 8:19,20	sees 54:10	settlement 65:24 109:21,24	sold 38:14 46:8 50:11 56:6 63:9,17
response 43:13,18 44:3 49:2,8 68:8 118:14 122:15,16 124:9 135:4	Rothstein 75:8 78:14 80:12 81:9 85:19 86:4,19 87:6	self-reporting 64:4	settling 89:19	sought 26:23 103:2 110:11 111:25
responsibilities 99:11	Roughly 12:20	self-reports 37:4	severity 6:10	sounded 21:25
responsibility 17:8 52:15,18 80:24	Rule 6:21	self-serving 91:5	Sevilla 112:12 113:9, 19	Sowin 40:16,17 49:3, 6 51:9,17,20 54:12 57:18,22 58:5,8,12 59:9,17 90:4 92:21
responsible 104:7	rules 6:22,23	sell 38:8 40:23 41:24 44:6 50:14 51:24 90:5,15,25 91:16 92:15	share 30:25	Sowin's 50:3,4 58:15
responsive 68:7,8 70:5,20 71:8,18,22 82:25 83:6,13 124:17	ruling 92:2	selling 58:3,10 91:4 95:11	shared 77:12 116:4 127:7 130:9,21 132:5 137:3,13 139:5	speak 32:13 42:17 55:16,18,19 74:6 83:2,9,16
rest 48:18	sale 111:25	send 32:19 118:25 134:22 138:18,22,24	shares 92:15	speaking 59:25 95:23
restrain 13:15	sales 38:13 43:19 93:2		sharply 142:25	specific 19:10 73:3
restrained 84:19	sanctioning 26:14		she'd 71:4	specifically 30:15 33:5 35:15 85:10 90:6 96:3 100:16 126:20 127:21,24 128:3
restraining 12:18,22 13:14,19 14:10 15:4 84:8	satisfy 71:7		She'll 91:25	speculate 21:8 22:25 29:5 55:4 68:22 98:21 120:4,5 136:7
restrains 13:6,9	Saturday 112:21		sheets 146:15,20	speculating 55:9
resume 107:23,25	Sauter 65:6,7,12		shortly 78:22	speculation 55:4
retail 94:7 104:17	schedule 48:13,16		showed 108:7	
retain 76:13	scheduled 48:17		signatory 104:10 106:8	
retained 141:5	Schroth 133:17,23 134:13,16		signed 16:3 17:15 84:9	
retainer 141:9	scope 84:25		significant 63:21,23 146:13	
retaining 140:3	Scott 60:4 65:18 97:8 117:25 132:14 146:17		signing 15:25	
return 108:3	screen 30:25 31:12 48:22			
returning 74:3				

Index: speed..told

speed 99:3	71:17 105:2 106:19 107:3	suggested 112:12	technology 78:14	Thomas 53:5 61:2 62:2,4,6
spent 123:6 144:22		suggesting 64:3	telephone 8:23 48:14	thought 15:18 22:14 52:11 54:24 55:24 59:21 62:2,7 78:24 79:2 96:4 121:8
spoken 57:11 60:4 138:2	stick 66:25 124:5	summary 101:15	telling 108:18	threw 73:12,14 76:19,20 77:18
stab 145:8	stipulate 6:18	supersede 56:2 71:13	temporary 12:18,22 13:9,14,19 14:10 15:4 84:8	throw 72:21 73:5,20 74:2 80:15,24 81:10, 14
stack 71:4,5	stop 38:21 43:9,10, 14 53:11 63:20 89:17,23 140:21	supervise 71:13	ten 46:18,24 47:21 108:4	throwing 73:17
staff 25:24 37:19	stopped 40:7 69:14	supervisor 146:10	ten-minute 107:23	thrown 86:15
stand 52:5 135:3,19	stopping 42:14	support 15:12 33:6 37:24 99:25 103:15	term 117:18	thrust 99:7
standard 7:11 47:25 73:9 75:11 108:25 109:5 143:4,8 147:24	Strand 14:14	supported 99:4	terminate 26:24	thumb 71:4
standing 23:22 24:22 26:11	Strategic 22:10,18	supposed 124:20	terminated 25:25 26:18 78:21	time 7:11 8:19 14:9 19:14 31:8,12 32:3,4 35:14,25 38:19 40:10 42:3,12 45:5 47:25 53:20 57:21 59:24 60:4,11,12 62:9 63:18 70:14 73:24 74:11,13,20 77:5,6, 18 82:16 86:5 88:5 90:3,20 94:20 100:20 103:16 107:12 108:3, 8,25 109:5 117:11 123:6,16,25 124:12 128:13 129:20,22 133:8 135:9 139:24 140:15 142:12,24 143:4,8 144:22 147:24
standpoint 36:3	strategist 111:8,9	surface 76:15	termination 80:3	times 23:6 123:22 126:4 145:13
stands 17:3	strategy 111:3 142:6	Surgent 53:5,13 60:24 61:18	terms 45:10 64:3 101:16	title 129:3
Stang 8:14	strike 29:6 30:11 56:9 91:11,20,25	suspense 126:19	testified 8:5 59:4 99:3 137:15	titles 21:4 22:17
start 7:8 39:6	string 39:5 118:25 119:20,21,25 120:6	swear 6:16 7:19	testify 11:20 16:20 23:19,21,23,24 24:5, 14 113:19	today 9:21 10:22 12:8,11 31:9 47:16 48:10,14 84:17 127:19
started 108:13 110:14	struggle 145:5	switched 69:16	testifying 12:11 26:10	today's 7:9 9:16 10:24 11:8
starts 119:21	stuck 126:16	sworn 8:4	testimony 24:21 35:24 47:16 58:6 59:13 76:24 120:13 124:2	told 25:24 34:16 37:8,20 57:4,23 66:12,15,17 74:23 86:19 100:22 120:11 133:23
state 6:23 47:2 116:11,12	stuff 78:14,15 91:8 99:9	symbol 21:21	Texas 7:16	
statement 46:15 79:8 87:6 122:16 135:20	subject 24:17,18,19 26:20 41:12 101:22 103:25 104:3 105:25 111:6 126:15 130:14 132:22	system 54:9	text 62:9,19,23 70:4 74:20 80:18 81:23 82:11 126:17 134:11, 19,22	
statements 88:9 125:2,13,20 126:12, 21 132:13,23 133:10, 25 135:10,14,18,24	submit 15:21	systems 47:11 50:21	texts 107:14	
States 7:14	submitted 15:3	T	Thanksgiving 38:7 60:13 90:24	
stay 26:23 103:25	subpoena 126:21 134:17 135:2,19 147:8,12	takes 147:7	theme 99:8	
stayed 77:8	subsequently 122:22	taking 48:10 106:19 107:3	thing 31:8 103:11 104:15 113:10 120:8 140:9	
stays 26:20	subsidiary 22:2	talk 16:5 47:3,9,10, 15,19 59:12,14 60:9 62:5 83:25 117:21	things 16:3 24:17 26:21 61:4 64:2 99:12 106:3 128:5	
steno 7:18	substance 15:11 32:6 44:25 45:10 50:4 96:6	talked 20:15,16 23:12 60:12 62:6 98:16	thinking 46:23	
stenographer 11:4 16:10 57:8 69:2 82:8 96:9,12,16 111:22 116:8 136:4 137:10 142:15 143:24	substances 44:24	talking 13:10,11 73:3		
stenographic 50:25	suffered 46:6	Tara 68:13 81:13,24 82:5,14,15 83:17,20, 22		
stepped 50:20	sufficient 52:6	Tara's 71:10 80:20 81:3,10 83:19 86:6, 19 87:2		
steps 42:21 43:4	suggest 61:16 102:19	technical 50:24		

tomorrow 103:5,13 147:15 top 63:14 101:18 113:7 115:21,22 122:14 topic 107:19 118:10 119:13 touch 16:11 trade 53:23 54:4,7 89:11 trader 40:15 trades 38:21 42:5,14 50:5,8 53:3,7 54:9, 10,24 55:11,15,22 56:16 57:2 58:17,22 60:17 61:18,24 89:9, 11,17,19,23 101:20 trading 49:13 52:8 72:24 transactions 42:19, 24 43:9,10 45:23 52:19 57:13 60:10 111:18 transcend 99:12 transcript 13:24 transfer 102:7,9,24 104:7 transferred 75:18 transition 50:12 56:2 63:8 72:7 74:12 transitioned 78:10 trial 112:22 113:18 TRO 15:13,16,23 16:6 83:25 93:4,15, 18 110:11 111:2 113:13 114:18 125:5 126:15 127:25 128:2 true 19:22 89:21 trust 71:10,11 TSG 6:9 turn 50:22 tweak 55:6 twisted 26:10	typed 122:20 typical 46:5 <hr/> <p style="text-align: center;">U</p> <hr/> UCC 74:19,23 124:25 125:12,19 126:7 136:6 ultimate 28:25 ultimately 141:4 unawareness 52:8 underlying 44:7 51:25 understand 10:21, 24 11:7 12:14 19:15 25:3 27:7 51:13 60:6 70:13 73:24 76:18 87:22 115:14 125:8 understanding 13:5,8 29:8,10,20 30:5,9 34:21 39:22 41:14 58:21 78:19 79:12,13,17,22,25 84:18,24 88:17 92:4 97:18 102:12 137:7 143:20 understood 42:3 70:2 73:8 unfounded 63:17 unhighlight 49:21 United 7:14 unpaid 77:8 untenable 101:15,17 untrue 87:6 unusual 52:12 up-front 101:23 upgraded 73:24 urgency 90:24 <hr/> <p style="text-align: center;">V</p> <hr/> validity 6:19 variety 126:6 vast 123:7	vehicles 16:19 17:9 versus 72:24 video 6:19 video-recorded 7:8 view 102:17 viewed 32:23 vindictive 90:21 91:5 violating 63:4 virtually 21:10 <hr/> <p style="text-align: center;">W</p> <hr/> Wait 7:20 waited 91:2 waived 116:11 wanted 49:19 55:14, 21 56:15 57:2,13 61:21,23 74:24 76:3 90:5 91:16 92:14 101:23 119:15,22 125:12,19 warning 62:25 63:19 64:9 warnings 64:12 Waterhouse 146:8,9 week 69:17 95:5 weeks 25:25 74:16 112:3 withdraw 33:17 34:7 38:4 98:5,11 106:10, 14 withdrawn 15:10 16:24 28:4 34:13 39:20,21 44:14 45:20 52:17 54:16 55:13 66:20 70:23 71:16 72:15 76:19 78:8 80:5 82:14 86:12 101:10 105:10 106:8 129:6 143:25 woman 128:17 word 25:4 words 122:18	work 39:6 71:10 82:6,10,15,23 128:22 work-around 53:2,7, 23 54:22 61:2,12,25 worked 69:7 working 53:22 119:16 120:19 121:2 123:7 works 40:16 54:14, 18,20 61:20 83:20 92:9 world 36:13 worse 90:19 wrapped 101:16 write 60:23 63:2 writes 113:8 writing 44:6 103:8 writings 44:13,15 45:4 written 37:10,17,18 44:9 wrong 99:20 wrote 51:17,25 53:5, 22 64:8 112:21 113:3 <hr/> <p style="text-align: center;">Y</p> <hr/> year 69:18 123:20,21 126:5 142:4 145:18 years 34:22 41:17 53:20 69:25 72:12 73:25 88:16 142:5 144:10,11 <hr/> <p style="text-align: center;">Z</p> <hr/> Ziehl 8:14
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EXHIBIT 96

Dondero - 5-28-2021

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

In re:)
)
6 HIGHLAND CAPITAL) Case No.
MANAGEMENT, LP,) 19-34054 L.P.
7) Chapter 11
Debtor,)
8 -----)
HIGHLAND CAPITAL MANAGEMENT,)
9 LP,)
)
10 Plaintiff,) Adversary No.
) 21-03003-sgi
11 vs.)
)
12 JAMES D. DONDERO,)
)
13 Defendant.)

REMOTE DEPOSITION OF

JAMES DONDERO

Pages 103 - 282

Dallas, Texas

Friday, 28th day of May, 2021

Job No. 194690

Reported by:

Daniel J. Skur, Notary Public and CSR

<p>Page 104</p> <p>1 Dondero - 5-28-2021</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 28th day of May, 2021</p> <p>9 9:33 a.m. - 1:59 p.m.</p> <p>10</p> <p>11</p> <p>12 Remote Deposition of JAMES DONDERO,</p> <p>13 located in Dallas, Texas, before Daniel J.</p> <p>14 Skur, Notary Public and Certified Shorthand</p> <p>15 Reporter in and for the State of Texas</p> <p>16 located in Waxahachie, Texas.</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 105</p> <p>1 Dondero - 5-28-2021</p> <p>2 A P P E A R A N C E S:</p> <p>3 Pachulski Stang Ziehl & Jones</p> <p>4 Attorney(s) for Debtor</p> <p>5 780 Third Avenue</p> <p>6 New York, New York 10017</p> <p>7 BY: John Morris, Esq.</p> <p>8 Gregory Demo, Esq.</p> <p>9</p> <p>10 Stinson</p> <p>11 Attorney(s) for The Witness</p> <p>12 3102 Oak Lawn Avenue</p> <p>13</p> <p>14 Dallas, Texas 75219</p> <p>15</p> <p>16 BY: Deborah Deitsch-Perez</p> <p>17</p> <p>18 Michael Aigen, Esq.</p> <p>19</p> <p>20 Paul Lackey, Esq.</p> <p>21</p> <p>22 Sidley Austin</p> <p>23 Attorney(s) for The Committee</p> <p>24 2021 McKinney Avenue</p> <p>25</p> <p>26 Dallas, Texas 75201</p> <p>27</p> <p>28 BY: Paige Montgomery, Esq.</p> <p>29</p> <p>30</p> <p>31 ALSO PRESENT:</p> <p>32 Davor Rukavina, NexPoint</p> <p>33 La Asia Cauty</p> <p>34</p> <p>35</p>
<p>Page 106</p> <p>1 Dondero - 5-28-2021</p> <p>2</p> <p>3 IT IS HEREBY STIPULATED AND AGREED</p> <p>4 by and between the attorneys for the respective</p> <p>5 parties herein, that filing and sealing be and</p> <p>6 the same are hereby waived.</p> <p>7 IT IS FURTHER STIPULATED AND AGREED</p> <p>8 that all objections, except as to the form of</p> <p>9 the question, shall be reserved to the</p> <p>10 time of the trial.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the within deposition may be sworn to and</p> <p>13 signed before any officer authorized to</p> <p>14 administer an oath, with the same force and</p> <p>15 effect as if signed and sworn to before the</p> <p>16 Court.</p> <p>17 - oOo -</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 107</p> <p>1 Dondero - 5-28-2021</p> <p>2 PROCEEDINGS</p> <p>3 REMOTE ORAL DEPOSITION OF</p> <p>4 JAMES DONDERO</p> <p>5 (REPORTER NOTE: This deposition is</p> <p>6 being conducted remotely in accordance with</p> <p>7 the Current Emergency Order regarding the</p> <p>8 COVID-19 State of Disaster.</p> <p>9 Today's date is the 28th day of</p> <p>10 May, 2021. The time is 9:33 a.m. Daylight</p> <p>11 Savings Time. The witness is located in</p> <p>12 Dallas, Texas.)</p> <p>13 JAMES DONDERO,</p> <p>14 having been duly cautioned and sworn to tell</p> <p>15 the truth, the whole truth and nothing but the</p> <p>16 truth, testified as follows:</p> <p>17 (9:33 A.M.)</p> <p>18 EXAMINATION</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Good morning, Mr. Dondero.</p> <p>21 A. Morning.</p> <p>22 Q. It's John Morris, again, from</p> <p>23 Pachulski on behalf of the debtor. We're here</p> <p>24 for your deposition today.</p> <p>25 Do you understand that?</p>

<p style="text-align: right;">Page 108</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Okay. We've done this a few times,</p> <p>4 so I'm going to kind of cut to the chase; but I</p> <p>5 do want to remind you that we're going to be</p> <p>6 looking at a number of documents today.</p> <p>7 And because of the difficulty</p> <p>8 sometimes of doing this on a Zoom or by video,</p> <p>9 if, at any time, you believe you need to see</p> <p>10 other portions of the document, please let me</p> <p>11 know that. Okay?</p> <p>12 A. Sure.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: Can we put up the first</p> <p>15 exhibit, please?</p> <p>16 (Exhibit 1 introduced.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Okay. This is a document that's got</p> <p>19 a title, "Promissory Note." It's dated</p> <p>20 February 2, 2018, and the amount of the note is</p> <p>21 \$3,825,000.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 MR. MORRIS: Can we just go to the</p> <p>25 signature line, please?</p>	<p style="text-align: right;">Page 109</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Is that your signature, sir?</p> <p>4 A. I believe that's my assistant on my</p> <p>5 behalf.</p> <p>6 Q. Did you authorize –</p> <p>7 (Audio distortion.)</p> <p>8 A. I'm sorry?</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. I don't want to step on your words.</p> <p>11 Were you finished with your answer?</p> <p>12 MS. DEITSCH-PEREZ: Yeah. Can</p> <p>13 you – yeah, can you ask it again?</p> <p>14 MR. MORRIS: Sure.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Is that your signature, sir?</p> <p>17 A. Yes, for – yes.</p> <p>18 MR. MORRIS: Can we go back to the</p> <p>19 top of the document?</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. And was this document signed on or</p> <p>22 around February 2, 2018?</p> <p>23 A. Yes.</p> <p>24 Q. Did you receive \$3,825,000 from the</p> <p>25 debtor on or around February 2nd, 2018?</p>
<p style="text-align: right;">Page 110</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. I – I believe so. I don't have</p> <p>3 direct awareness, but I believe so.</p> <p>4 Q. Okay. And did you sign this</p> <p>5 promissory note in exchange for that cash that</p> <p>6 you believe you received?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Are you familiar with the</p> <p>9 term "demand note"?</p> <p>10 A. Yes.</p> <p>11 Q. Can you describe for me your</p> <p>12 understanding of what a demand note is?</p> <p>13 A. It's a note that's – maturity is</p> <p>14 defined by the term "demand" versus a – a</p> <p>15 stipulated date.</p> <p>16 Q. And if we look down to paragraph 2,</p> <p>17 at the time that you signed this document on</p> <p>18 February 2, 2018, did you understand, based on</p> <p>19 paragraph 2, that you were signing a demand</p> <p>20 note, as you've characterized it?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 MR. MORRIS: Can we go back to the</p> <p>24 top of the document?</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 111</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Is it fair to say that under this</p> <p>3 demand note, you promised to pay Highland</p> <p>4 Capital Management, L.P., the sum of</p> <p>5 \$3,825,000?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And at the time that you</p> <p>8 signed this document on February 2nd, 2018, did</p> <p>9 you intend to repay to Highland Capital</p> <p>10 Management, L.P., \$3,825,000 plus interest?</p> <p>11 A. Yes.</p> <p>12 Q. And at the time you signed this</p> <p>13 document, did you intend to repay the principal</p> <p>14 amount plus interest upon demand by HCMLP?</p> <p>15 A. Whatever was appropriate to pay,</p> <p>16 what hadn't been paid if it – if it had –</p> <p>17 yeah, if it had – whatever the terms are, the</p> <p>18 terms are.</p> <p>19 Q. Okay. Did you read the promissory</p> <p>20 note before you signed it?</p> <p>21 A. No.</p> <p>22 Q. Is there anything about the</p> <p>23 promissory note today that you don't</p> <p>24 understand?</p> <p>25 A. I haven't looked at it closely. I'm</p>

<p style="text-align: right;">Page 112</p> <p>1 Dondero - 5-28-2021</p> <p>2 aware of it but – you know, but I'm not aware.</p> <p>3 I haven't looked at it closely.</p> <p>4 Q. Well, but you do know that the</p> <p>5 debtor has sued you to collect on this note,</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And can you identify anything</p> <p>9 in this note today that you don't understand?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. Again, I don't want to make any</p> <p>13 legal interpretation or analysis of the</p> <p>14 contract.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. And I appreciate that.</p> <p>17 And to be clear, I'm not asking you</p> <p>18 for any legal opinion or any legal analysis.</p> <p>19 I'm asking for facts.</p> <p>20 As a factual matter, as a layperson,</p> <p>21 is there anything about this note today that</p> <p>22 you do not understand?</p> <p>23 MS. DEITSCH-PEREZ: Object, no</p> <p>24 foundation.</p> <p>25 A. And I can't say.</p>	<p style="text-align: right;">Page 113</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. You're not aware of anything;</p> <p>4 is that fair?</p> <p>5 MS. DEITSCH-PEREZ: Object, no</p> <p>6 foundation.</p> <p>7 A. No. I'm saying I can't give an</p> <p>8 opinion.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. All right. I'll try one more time a</p> <p>11 slightly different way.</p> <p>12 Can you identify any language in</p> <p>13 this promissory note that you, as the maker of</p> <p>14 the note and as a layperson, as a matter of</p> <p>15 fact, do not understand?</p> <p>16 MS. DEITSCH-PEREZ: Objection, no</p> <p>17 foundation.</p> <p>18 A. I – I don't have – I haven't</p> <p>19 reviewed it. I don't have a comment.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. At the time that you signed this,</p> <p>22 did you believe that this note reflected all of</p> <p>23 the terms and conditions with respect to the</p> <p>24 subject matter of the note?</p> <p>25 MS. DEITSCH-PEREZ: Object, no</p>
<p style="text-align: right;">Page 114</p> <p>1 Dondero - 5-28-2021</p> <p>2 foundation.</p> <p>3 A. Yeah, I believe largely at the time,</p> <p>4 yes.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. In fact, if we go to paragraph 8,</p> <p>7 there's – the last sentence is what's commonly</p> <p>8 referred to as an integration clause.</p> <p>9 Do you see that last sentence of</p> <p>10 paragraph 8?</p> <p>11 A. Yes.</p> <p>12 Q. And did you agree with the debtor</p> <p>13 that the terms and provisions of the paragraph</p> <p>14 control and supersede every other provision of</p> <p>15 all other agreements between the payee and the</p> <p>16 maker in conflict herewith?</p> <p>17 A. I see it. I mean, I read it. But</p> <p>18 what's – what's the question?</p> <p>19 Q. Withdrawn. It's okay. It speaks</p> <p>20 for itself.</p> <p>21 You were the CEO of Highland at the</p> <p>22 time that you signed the note, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you controlled Highland at that</p> <p>25 time; is that fair?</p>	<p style="text-align: right;">Page 115</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. And at the time that you signed the</p> <p>4 note, the Redeemer Committee had not yet</p> <p>5 obtained a judgment against Highland Capital</p> <p>6 Management or anybody else; is that – any</p> <p>7 other Highland entity; is that right?</p> <p>8 A. I – and I don't recall the – the</p> <p>9 timing –</p> <p>10 Q. Okay.</p> <p>11 A. – of their arbitration award or...</p> <p>12 Q. Let me ask you to just go back in</p> <p>13 time, February of 2018. Do you recall having</p> <p>14 any concern in February 2018 that you might</p> <p>15 lose control of Highland?</p> <p>16 A. No, I don't recall.</p> <p>17 Q. While you were the CEO, did</p> <p>18 Highland – withdrawn.</p> <p>19 I'm going to refer to Highland</p> <p>20 Capital Management, L.P., variously today as</p> <p>21 either the debtor, Highland, or HCMLP; is that</p> <p>22 fair?</p> <p>23 MS. DEITSCH-PEREZ: John, I think</p> <p>24 it's a little confusing if you do that. I</p> <p>25 mean, if you could refer to the</p>

<p>Page 116</p> <p>1 Dondero - 5-28-2021</p> <p>2 post-bankruptcy entity as "the debtor" and,</p> <p>3 when you're talking about prebankruptcy,</p> <p>4 call it "Highland" or "HCM"?</p> <p>5 MR. MORRIS: Okay.</p> <p>6 MS. DEITSCH-PEREZ: I – I think</p> <p>7 that would probably be clearer.</p> <p>8 MR. MORRIS: That's fair. I'll try</p> <p>9 and do just that. Thank you very much.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. While you were the CEO of HCMLP, did</p> <p>12 HCMLP, prepare, in the ordinary course of</p> <p>13 business, a document called a "Monthly</p> <p>14 Reporting Package"?</p> <p>15 A. I don't know – I don't know the</p> <p>16 name – I don't know that name in particular,</p> <p>17 but we did do monthly financials, I believe.</p> <p>18 Q. Okay. And did you personally review</p> <p>19 the monthly financials each month that they</p> <p>20 were prepared?</p> <p>21 A. No.</p> <p>22 Q. Do you know who was responsible for</p> <p>23 preparing the monthly financials?</p> <p>24 A. It would have been in accounting. I</p> <p>25 don't know who in accounting.</p>	<p>Page 117</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Was Frank Waterhouse responsible for</p> <p>3 preparing the Monthly Operating Reports?</p> <p>4 A. He was our CFO. So everything,</p> <p>5 ultimately, in accounting reported up through</p> <p>6 him, but I don't know his involvement in that</p> <p>7 report.</p> <p>8 Q. Can you identify any person who was</p> <p>9 responsible for preparing the Monthly Operating</p> <p>10 Reports for HCMLP, while you were the CEO?</p> <p>11 A. No.</p> <p>12 Q. Do you know what the Monthly</p> <p>13 Operating Reports were used for?</p> <p>14 Withdrawn.</p> <p>15 What was the purpose of preparing</p> <p>16 Monthly Operating Reports, if you know?</p> <p>17 A. I don't know.</p> <p>18 Q. Were they delivered to you each</p> <p>19 month, even if you didn't read them?</p> <p>20 A. I don't believe so. Not physically,</p> <p>21 that I can remember. If there was an email, I</p> <p>22 don't remember.</p> <p>23 Q. Did you ever discuss any of the</p> <p>24 Monthly Operating Reports with Mr. Waterhouse?</p> <p>25 A. I can't – I can't recall.</p>
<p>Page 118</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: I mean, do you</p> <p>3 mean the report specifically or Highland's</p> <p>4 financials generally?</p> <p>5 MR. MORRIS: The Monthly Operating</p> <p>6 Reports that we're talking about.</p> <p>7 And I would appreciate it, Deborah,</p> <p>8 if you have an objection, just say "Object</p> <p>9 to the form of the question"; and I'll do</p> <p>10 the best I can to – to try to understand</p> <p>11 what you're saying, but I'd prefer no</p> <p>12 speaking objections.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Do you recall ever speaking with</p> <p>15 anybody in accounting with respect to any</p> <p>16 Monthly Operating Report that they prepared?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay.</p> <p>19 MR. MORRIS: Can we put up Exhibit</p> <p>20 Number 2, please?</p> <p>21 (Exhibit 2 introduced.)</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Looking at the first page, sir, does</p> <p>24 this appear to be what we've been describing as</p> <p>25 a Monthly Operating Report for Highland Capital</p>	<p>Page 119</p> <p>1 Dondero - 5-28-2021</p> <p>2 Management?</p> <p>3 A. It says "Operating Results." I – I</p> <p>4 have no recollection of seeing this cover sheet</p> <p>5 before.</p> <p>6 Q. Okay.</p> <p>7 MR. MORRIS: Can we go to the second</p> <p>8 page, please?</p> <p>9 Stop right there.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. This is the second page of the</p> <p>12 Operating Results for February 2018, and it's</p> <p>13 headed "Significant Items Impacting HCMLP's</p> <p>14 Balance Sheet."</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know whether the accounting</p> <p>18 department was charged with the responsibility</p> <p>19 of identifying on a monthly basis significant</p> <p>20 items that would impact Highland's balance</p> <p>21 sheet?</p> <p>22 A. I have no particular awareness.</p> <p>23 Q. Okay. Do you see at the bottom</p> <p>24 under the title "Other," it's \$3.8 million and</p> <p>25 it's referred to as "Partner Loan"?</p>

<p style="text-align: right;">Page 120</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Do you have an understanding that</p> <p>4 that 3.8 million-dollar partner loan refers to</p> <p>5 what we just looked at as Exhibit 1, the</p> <p>6 promissory note?</p> <p>7 MS. DEITSCH-PEREZ: Object, no</p> <p>8 foundation.</p> <p>9 A. I have – I have no particular</p> <p>10 awareness other than the amounts are similar.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. And – and do you know whether</p> <p>13 Highland recorded the promissory note as an</p> <p>14 asset on its balance sheet as of February 2018?</p> <p>15 A. I – I don't know.</p> <p>16 Q. So, you signed a promissory note for</p> <p>17 \$3.8 million in February 2018; and as the CEO,</p> <p>18 you don't know if Highland carried that</p> <p>19 promissory note on its balance sheet. Do I</p> <p>20 have that right?</p> <p>21 A. I'm saying I don't have particular</p> <p>22 knowledge. I – I am a CPA and GAAP accounting</p> <p>23 would suggest that it was, but I don't have –</p> <p>24 I don't have particular knowledge on how it was</p> <p>25 accounted for.</p>	<p style="text-align: right;">Page 121</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay. Later in the year, you signed</p> <p>3 two more promissory notes in favor of Highland;</p> <p>4 is that right?</p> <p>5 A. I – I believe so. Yeah.</p> <p>6 MR. MORRIS: Can you put up</p> <p>7 Exhibit 3, please?</p> <p>8 (Exhibit 3 introduced.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. And can we go to the signature line?</p> <p>11 (Scrolling.)</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Is that your signature, sir?</p> <p>14 A. Yes.</p> <p>15 MR. MORRIS: Go to the top of the</p> <p>16 page.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Did you sign a promissory note on or</p> <p>19 about August 1st, 2018, in the amount of</p> <p>20 \$2.5 million in favor of Highland?</p> <p>21 A. Yes.</p> <p>22 Q. Did you receive from Highland</p> <p>23 Capital Management, L.P., \$2.5 million on or</p> <p>24 about August 1st, 2018?</p> <p>25 A. I believe so.</p>
<p style="text-align: right;">Page 122</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. And did you, in fact, sign this</p> <p>3 promissory note in exchange for that</p> <p>4 \$2.5 million?</p> <p>5 A. Yes.</p> <p>6 MR. MORRIS: Can we go down to</p> <p>7 paragraph 2, please?</p> <p>8 (Scrolling.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Looking at paragraph 2, would you</p> <p>11 characterize this as a demand note, using the</p> <p>12 understanding that you described earlier today?</p> <p>13 A. Yes.</p> <p>14 Q. And – and this note, like the</p> <p>15 other, because they're demand notes, there's no</p> <p>16 conditions for – for the demand, is that</p> <p>17 right, at least as drafted.</p> <p>18 Withdrawn. That wasn't a great</p> <p>19 question.</p> <p>20 Were these unconditional demand</p> <p>21 notes, these two documents that we've</p> <p>22 looked at?</p> <p>23 A. I – I don't want to make a legal</p> <p>24 interpretation.</p> <p>25 Q. I'm just asking for your</p>	<p style="text-align: right;">Page 123</p> <p>1 Dondero - 5-28-2021</p> <p>2 understanding as the person who signed the</p> <p>3 note. At the time you signed it, at that time,</p> <p>4 did you understand that there were any</p> <p>5 conditions placed on Highland's ability to make</p> <p>6 a demand?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. Did you understand that under</p> <p>9 these demand notes, that if you defaulted, all</p> <p>10 amounts that were due and payable would</p> <p>11 accelerate?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. I don't know.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Did you read this – did you read</p> <p>17 this promissory note before you signed it?</p> <p>18 A. No.</p> <p>19 Q. Do you know whose idea it was to</p> <p>20 give you the principal amount of these notes</p> <p>21 and for you to execute the promissory notes in</p> <p>22 exchange?</p> <p>23 A. I – again, I think it's proper</p> <p>24 accounting consistent with what we've done</p> <p>25 with – we've done historically – or Highland</p>

<p>Page 124</p> <p>1 Dondero - 5-28-2021</p> <p>2 did historically and what Highland did</p> <p>3 historically for other employees.</p> <p>4 Q. Okay. I'm not asking about that.</p> <p>5 I'm asking just about you and the two notes</p> <p>6 that we've looked at so far: Who made the</p> <p>7 decision at the respective moments in time to</p> <p>8 transfer to you the principal amount of the</p> <p>9 notes and for you to execute the notes?</p> <p>10 A. I believe it would have come from</p> <p>11 accounting.</p> <p>12 Q. Who decided – who decided the</p> <p>13 principal amount of the note?</p> <p>14 A. I don't know. It would – I don't</p> <p>15 know.</p> <p>16 Q. Did you ask to borrow money?</p> <p>17 Did you ask the folks in accounting</p> <p>18 for a loan from Highland in the principal</p> <p>19 amount of the notes and request that they</p> <p>20 document it accordingly?</p> <p>21 A. No.</p> <p>22 Q. Who was your assistant at this time?</p> <p>23 A. My accounting assistant at this time</p> <p>24 was Melissa Schroth.</p> <p>25 Q. And was she authorized to sign these</p>	<p>Page 125</p> <p>1 Dondero - 5-28-2021</p> <p>2 notes on your behalf?</p> <p>3 A. I – that – sometimes she signs</p> <p>4 stuff. I don't know on this. I'm – I'm not</p> <p>5 denying that it's a bona fide – signed by me.</p> <p>6 Or if it wasn't signed by me, it was –</p> <p>7 somebody who was authorized signed it on my</p> <p>8 behalf.</p> <p>9 Q. Okay. I appreciate that. Thank</p> <p>10 you.</p> <p>11 Is there anything about –</p> <p>12 withdrawn.</p> <p>13 Was there anything about this</p> <p>14 promissory note that you didn't understand at</p> <p>15 the time that either you signed it or it was</p> <p>16 signed on your behalf?</p> <p>17 MS. DEITSCH-PEREZ: Object, no</p> <p>18 foundation.</p> <p>19 A. Again, I didn't evaluate it</p> <p>20 carefully, and I didn't actually even read it.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Okay. As you sit here today, can</p> <p>23 you identify anything in this document that you</p> <p>24 do not understand?</p> <p>25 MS. DEITSCH-PEREZ: Object, no</p>
<p>Page 126</p> <p>1 Dondero - 5-28-2021</p> <p>2 foundation.</p> <p>3 A. I – I don't want to make a legal</p> <p>4 interpretation on a legal document.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. I appreciate that, but I have no</p> <p>7 ability to ask any follow-up questions. So let</p> <p>8 me ask it just a different way: Is there</p> <p>9 anything about this document that you don't</p> <p>10 understand today?</p> <p>11 MS. DEITSCH-PEREZ: Object, no</p> <p>12 foundation.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. You can answer.</p> <p>15 A. I don't know.</p> <p>16 Q. Okay. Do you understand that if</p> <p>17 there was something that – that you did not</p> <p>18 understand, you have an obligation to tell me</p> <p>19 that right now?</p> <p>20 MS. DEITSCH-PEREZ: Object, no</p> <p>21 foundation.</p> <p>22 A. I – I – the answer is the same. I</p> <p>23 don't know.</p> <p>24 MR. MORRIS: Can we go to Exhibit</p> <p>25 Number 4, please?</p>	<p>Page 127</p> <p>1 Dondero - 5-28-2021</p> <p>2 (Exhibit 4 introduced.)</p> <p>3 MR. MORRIS: Can we go to the</p> <p>4 signature line when you get there?</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Is that your signature, sir?</p> <p>7 A. Yes.</p> <p>8 Q. And did you sign this document or –</p> <p>9 or – let me ask two questions first. Did you</p> <p>10 personally sign this document?</p> <p>11 A. And again, it was either me or</p> <p>12 someone with my approval, but that doesn't look</p> <p>13 like my typical signature, but it's close.</p> <p>14 Q. Okay. And whoever signed it had the</p> <p>15 authority from you to sign on your behalf, is</p> <p>16 that fair?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 MR. MORRIS: Can we go to the top of</p> <p>20 the page, please?</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. And did you or somebody acting on</p> <p>23 your behalf sign this promissory note on</p> <p>24 August 13, 2018, in the amount of \$2.5 million?</p> <p>25 A. Yes.</p>

<p>Page 128</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Can we go to</p> <p>3 paragraph 2, please?</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Looking at paragraph 2 and the term</p> <p>6 contained therein, would you agree that this is</p> <p>7 a demand note, using the definition that you</p> <p>8 supplied earlier today?</p> <p>9 A. Yes.</p> <p>10 Q. At the time that this note was</p> <p>11 signed on your behalf, did you intend to comply</p> <p>12 with the terms of this note?</p> <p>13 A. Yes.</p> <p>14 Q. At the time that this note was</p> <p>15 signed on your behalf, did you intend to pay</p> <p>16 all unpaid principal and accrued, but unpaid,</p> <p>17 interest upon demand of the payee?</p> <p>18 A. Let me say I – I expected to honor</p> <p>19 the agreement. I don't know if I can answer</p> <p>20 that with regard to that one term.</p> <p>21 Q. Well, I do just want to make sure</p> <p>22 that – withdrawn.</p> <p>23 You understood at the time you</p> <p>24 signed this document, or it was signed on your</p> <p>25 behalf, that it was a demand note, correct?</p>	<p>Page 129</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. That it was structured – no. I</p> <p>3 think what I've testified or tried to testify</p> <p>4 to is that they are demand notes or they're</p> <p>5 written as demand notes. I didn't read them or</p> <p>6 pay attention at the time to the structure of</p> <p>7 the note.</p> <p>8 Q. Okay. And as demand notes, you</p> <p>9 understood that any unpaid principal and</p> <p>10 interest would be due upon demand, correct?</p> <p>11 A. Again, I don't want to make – I</p> <p>12 don't want to make – I don't want to affirm</p> <p>13 that statement. I would say I don't know</p> <p>14 because I don't want to – I don't know the</p> <p>15 rest of the context of the rest of the note and</p> <p>16 how it all interplays.</p> <p>17 Q. All right. Well, I'm happy to –</p> <p>18 to – it's a very short document, so we can</p> <p>19 look at it for as long as you want, but I</p> <p>20 really need to know what – what you, as the</p> <p>21 maker, understood when you signed the note. So</p> <p>22 I'm going to ask a very simple question, and I</p> <p>23 encourage you to – to ask to see whatever</p> <p>24 portions of the document you want, okay?</p> <p>25 When these three notes were signed</p>
<p>Page 130</p> <p>1 Dondero - 5-28-2021</p> <p>2 by you or signed by someone you authorized to</p> <p>3 sign, what did you understand the payment terms</p> <p>4 to be?</p> <p>5 A. I – I didn't. I didn't have an</p> <p>6 understanding at the time.</p> <p>7 Q. So – but – but you would agree</p> <p>8 that your intention was to comply with the</p> <p>9 terms of the note; is that fair?</p> <p>10 A. In aggregate, yes.</p> <p>11 Q. Okay.</p> <p>12 MR. MORRIS: Go to Exhibit 5,</p> <p>13 please.</p> <p>14 (Exhibit 5 introduced.)</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Is it your practice to sign</p> <p>17 documents or to have people sign documents on</p> <p>18 your behalf that you haven't read?</p> <p>19 A. Yes.</p> <p>20 Q. This is a document that's entitled</p> <p>21 "Operating Results" for August 2018. Do you</p> <p>22 see that?</p> <p>23 A. Yes.</p> <p>24 MR. MORRIS: And if we could just go</p> <p>25 to the second page.</p>	<p>Page 131</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Do you see under Significant Items</p> <p>4 Impacting Highland's bank – balance sheet for</p> <p>5 August 2018 at the bottom, there's a reference</p> <p>6 to \$5 million in "partner loan." Do you see</p> <p>7 that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have an understanding as to</p> <p>10 whether or not that refers to the two</p> <p>11 2.5 million-dollar notes that we just looked at</p> <p>12 that were signed in August 2018?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you have any recollection at</p> <p>15 all or – withdrawn.</p> <p>16 Were you personally referred to as a</p> <p>17 partner of Highland in August 2018?</p> <p>18 A. I believe so.</p> <p>19 Q. Are you aware of any partner loans</p> <p>20 that were made by Highland in August 2018 other</p> <p>21 than the two loans that we just looked at?</p> <p>22 A. I don't know.</p> <p>23 Q. You're not aware of any; is that</p> <p>24 fair?</p> <p>25 MS. DEITSCH-PEREZ: Object, no</p>

<p style="text-align: right;">Page 132</p> <p>1 Dondero - 5-28-2021</p> <p>2 foundation.</p> <p>3 A. I don't know.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. There came a time when the debtor</p> <p>6 made demand on these three notes, right?</p> <p>7 A. I don't know. I believe – I don't</p> <p>8 know specifically, but I believe so.</p> <p>9 MR. MORRIS: Can we put up</p> <p>10 Exhibit 6, please?</p> <p>11 (Exhibit 6 introduced.)</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Do you see this is a – it's a</p> <p>14 letter dated December 3rd, and it's addressed</p> <p>15 to you.</p> <p>16 And if we scroll down a little bit,</p> <p>17 it's signed by Mr. Seery as the CEO and CRO of</p> <p>18 Highland Capital Management.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. Do you recall on or around</p> <p>22 December 3rd, 2020, the debtor made a demand</p> <p>23 for all outstanding principal and interest due</p> <p>24 under the three notes that we just looked at?</p> <p>25 A. I – I see the letter. I don't have</p>	<p style="text-align: right;">Page 133</p> <p>1 Dondero - 5-28-2021</p> <p>2 a recollection.</p> <p>3 Q. All right. Do you understand that</p> <p>4 in December 2020, the debtor made a demand for</p> <p>5 payment of all unpaid principal and interest</p> <p>6 under the three notes that we just looked at,</p> <p>7 even if you don't remember this particular</p> <p>8 letter?</p> <p>9 A. I'm sorry. What was – yeah, I</p> <p>10 accept the letter, and I'll accept that it was</p> <p>11 delivered.</p> <p>12 What – what's your question,</p> <p>13 please?</p> <p>14 Q. I'm trying to just get – get your</p> <p>15 understanding.</p> <p>16 And I think you testified that you</p> <p>17 don't recall seeing this letter. Do I have</p> <p>18 that right?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. So, putting the letter to the</p> <p>21 side, did you become aware in December 2020</p> <p>22 that the debtor had demanded that you pay all</p> <p>23 unpaid principal and interest due under the</p> <p>24 three promissory notes that we just looked at?</p> <p>25 A. Again, just generally.</p>
<p style="text-align: right;">Page 134</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Did you make any payment to the</p> <p>3 debtor in response to that demand?</p> <p>4 A. No.</p> <p>5 Q. Did you or anybody acting on your</p> <p>6 behalf respond to the debtor's demand in any</p> <p>7 way?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Withdrawn. That's fair.</p> <p>12 Let me ask a different question.</p> <p>13 Did you or anybody acting on your</p> <p>14 behalf respond to the debtor's demand at any</p> <p>15 time prior to the commencement of this</p> <p>16 adversary proceeding?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. Can you repeat it one more time?</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Sure. Did you or anybody acting on</p> <p>22 your behalf respond to the debtor's demand for</p> <p>23 payment of all unpaid principal and interest at</p> <p>24 any time prior to the commencement of this</p> <p>25 lawsuit?</p>	<p style="text-align: right;">Page 135</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. I want – I want to answer that</p> <p>5 question as – as follows: I'm not saying on</p> <p>6 my behalf, but I know there was a lot of</p> <p>7 conversations with lawyers and business people</p> <p>8 around the notes and their shared services and</p> <p>9 the split and the overpayments to Highland and</p> <p>10 – trying to reach some amicable resolution of</p> <p>11 shared services – in fact, the entire</p> <p>12 estate – but I don't – I don't – I don't</p> <p>13 recall specifically or – what lawyers or what</p> <p>14 business people were saying what to the debtor,</p> <p>15 but I – I know there were a lot of</p> <p>16 conversations that were going on.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Can you identify any aspect of any</p> <p>19 of the conversations you just described that</p> <p>20 pertained to the debtor's demand for payment of</p> <p>21 all unpaid principal and interest on the three</p> <p>22 notes?</p> <p>23 A. Not – not specifically.</p> <p>24 Q. Okay. There came a time when an</p> <p>25 answer to the debtor's complaint was filed on</p>

<p style="text-align: right;">Page 136</p> <p>1 Dondero - 5-28-2021</p> <p>2 your behalf.</p> <p>3 Do you remember that?</p> <p>4 A. No, but I'm willing to be refreshed.</p> <p>5 Q. Okay.</p> <p>6 MR. MORRIS: Can we please put up</p> <p>7 Exhibit 7?</p> <p>8 (Exhibit 7 introduced.)</p> <p>9 MR. MORRIS: And if we could just</p> <p>10 scroll down to the title.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Do you see that this document is</p> <p>13 called "Defendant James Dondero's Original</p> <p>14 Answer"?</p> <p>15 A. Yes.</p> <p>16 Q. And if we scroll back to the top of</p> <p>17 the document, do you see that it was filed on</p> <p>18 the docket on March 16, 2021?</p> <p>19 A. Yes.</p> <p>20 Q. Did you personally read this</p> <p>21 document before it was filed?</p> <p>22 A. No.</p> <p>23 Q. Did you have an understanding as to</p> <p>24 the contents of the document before it was</p> <p>25 filed?</p>	<p style="text-align: right;">Page 137</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. No.</p> <p>3 Q. Did you authorize Bonds Ellis to</p> <p>4 file this document on your behalf?</p> <p>5 A. Not specifically that I remember.</p> <p>6 Q. Did you know on or around March 16,</p> <p>7 2021, that Bonds Ellis had filed "Defendant</p> <p>8 James Dondero's Original Answer" in this</p> <p>9 adversary proceeding?</p> <p>10 A. Not specifically. There's a lot</p> <p>11 going on.</p> <p>12 Q. As you sit here right now--and,</p> <p>13 again, happy to page through the document--can</p> <p>14 you tell me whether you have ever read</p> <p>15 Defendant James Dondero's Original Answer?</p> <p>16 A. Not that I recall.</p> <p>17 Q. So, as of -- and that's true as of</p> <p>18 today; is that fair?</p> <p>19 A. Can we scroll through this, please?</p> <p>20 Q. Yes. Just let us know if you want</p> <p>21 us to slow down or speed up.</p> <p>22 MS. DEITSCH-PEREZ: Yeah, just go</p> <p>23 slow enough so he could sort of eyeball</p> <p>24 each page.</p> <p>25 MR. MORRIS: You bet.</p>
<p style="text-align: right;">Page 138</p> <p>1 Dondero - 5-28-2021</p> <p>2 THE WITNESS: Yep, keep going.</p> <p>3 (Scrolling.)</p> <p>4 THE WITNESS: Hold on. Could you go</p> <p>5 back a little bit, please? It just goes --</p> <p>6 stop right there.</p> <p>7 A. I do remember paragraph 5. I think</p> <p>8 that was recently tried last week or so, but I</p> <p>9 think that was always the -- always the way it</p> <p>10 was described to me by lawyers, was that these</p> <p>11 notes shouldn't be in her Court.</p> <p>12 MS. DEITSCH-PEREZ: Okay. And I'll</p> <p>13 just -- I'll just caution the witness to</p> <p>14 not disclose communications with counsel,</p> <p>15 but it's okay if something catches your eye</p> <p>16 and you, at least, remember that part, say,</p> <p>17 "Oh, yeah, I remember that one," but</p> <p>18 without going into details as to any</p> <p>19 communications with your lawyers.</p> <p>20 MR. MORRIS: And -- and that's fine.</p> <p>21 That's fine. I'm certainly not looking for</p> <p>22 that.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. The question is really simple: Have</p> <p>25 you ever seen this document before and --</p>	<p style="text-align: right;">Page 139</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: John, I think he</p> <p>3 said he needs to scroll through it to see</p> <p>4 if anything --</p> <p>5 MR. MORRIS: I understand.</p> <p>6 MS. DEITSCH-PEREZ: -- triggers a</p> <p>7 recollection. He just said he's looking at</p> <p>8 5, yeah, that looks familiar. If you want</p> <p>9 to keep going, we could find out if there</p> <p>10 are any others that -- that look familiar</p> <p>11 to him.</p> <p>12 THE WITNESS: Let's keep going.</p> <p>13 (Scrolling.)</p> <p>14 MS. DEITSCH-PEREZ: You'll agree</p> <p>15 that most answers are not particularly</p> <p>16 memorable when they say things like --</p> <p>17 (Simultaneous conversation.)</p> <p>18 MR. MORRIS: Please stop. Please</p> <p>19 stop. Please stop talking. Please stop</p> <p>20 talking. It's inappropriate.</p> <p>21 MS. DEITSCH-PEREZ: I -- I know.</p> <p>22 It's your deposition, and you could do all</p> <p>23 this stuff, but --</p> <p>24 (Simultaneous conversation.)</p> <p>25 MR. MORRIS: Please stop talking.</p>

<p style="text-align: right;">Page 140</p> <p>1 Dondero - 5-28-2021</p> <p>2 Please stop talking.</p> <p>3 MS. DEITSCH-PEREZ: I hear you.</p> <p>4 THE WITNESS: Keep -- keep going.</p> <p>5 (Scrolling.)</p> <p>6 THE WITNESS: Okay. Keep going.</p> <p>7 (Scrolling.)</p> <p>8 THE WITNESS: It looks to me like --</p> <p>9 MS. DEITSCH-PEREZ: Keep -- let --</p> <p>10 let him go through the whole thing.</p> <p>11 THE WITNESS: Sure. Keep going.</p> <p>12 (Scrolling.)</p> <p>13 THE WITNESS: Okay. Is that it?</p> <p>14 MR. MORRIS: Yes.</p> <p>15 THE WITNESS: Okay.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Do you recall ever seeing this</p> <p>18 document before, sir?</p> <p>19 A. The -- the substance of it, again,</p> <p>20 some of it I -- I remember, and the -- there --</p> <p>21 it strikes me as a legal argument and defenses</p> <p>22 regarding the payment of the notes, and I do</p> <p>23 remember a lot of conversation regarding it</p> <p>24 being -- it should be outside -- it should be</p> <p>25 in a different court, and it should be a jury</p>	<p style="text-align: right;">Page 141</p> <p>1 Dondero - 5-28-2021</p> <p>2 trial. And those are two main points in here,</p> <p>3 but it seems like there are a bunch of other</p> <p>4 defenses listed.</p> <p>5 Q. Okay.</p> <p>6 A. And I have -- and I have an</p> <p>7 awareness of it, but I'm not a lawyer.</p> <p>8 Q. I appreciate that you're not a</p> <p>9 lawyer; but looking at the document, does that</p> <p>10 refresh your recollection that you read and</p> <p>11 reviewed this document before it was filed on</p> <p>12 your behalf?</p> <p>13 A. I have -- I have an awareness of it,</p> <p>14 but I wouldn't -- I wouldn't have been deeply</p> <p>15 involved in its drafting or detailed approval.</p> <p>16 MR. MORRIS: Can we go to page 6 of</p> <p>17 8, please?</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. And directing your attention to</p> <p>20 paragraph 40, do you see it says, as the first</p> <p>21 affirmative defense, quote, "Defendant asserts</p> <p>22 that plaintiff's claims should be barred</p> <p>23 because it was previously agreed by plaintiff</p> <p>24 that plaintiff would not collect on the notes."</p> <p>25 Do you see that?</p>
<p style="text-align: right;">Page 142</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Have I read that accurately?</p> <p>4 A. Yes.</p> <p>5 Q. Did the plaintiff ever agree that</p> <p>6 plaintiff would not collect on the notes?</p> <p>7 A. Yes.</p> <p>8 Q. You subsequently amended this</p> <p>9 defense; isn't that right?</p> <p>10 A. I believe so.</p> <p>11 Q. And do you understand that you</p> <p>12 amended it to add a few words relating to</p> <p>13 conditions subsequent?</p> <p>14 A. I -- I -- other than for</p> <p>15 clarification and completeness, the -- it was</p> <p>16 amended. I don't have specific knowledge of</p> <p>17 what was amended.</p> <p>18 Q. Okay. When did the plaintiff agree</p> <p>19 that the plaintiff would not collect on the</p> <p>20 notes?</p> <p>21 A. Boy, that was early on in the case.</p> <p>22 Every proposal, every POT plan, every</p> <p>23 settlement discussion never included value for</p> <p>24 notes.</p> <p>25 Q. All right. I'm going to ask the</p>	<p style="text-align: right;">Page 143</p> <p>1 Dondero - 5-28-2021</p> <p>2 question again: When did the plaintiff agree</p> <p>3 that it would not collect on the notes?</p> <p>4 MS. DEITSCH-PEREZ: Are you talking</p> <p>5 about the subsequent agreements in the next</p> <p>6 pleading?</p> <p>7 MR. MORRIS: I'm asking for an</p> <p>8 answer as to when the agreement referred to</p> <p>9 in paragraph 40 was entered into.</p> <p>10 A. First quarter of -- first quarter of</p> <p>11 2020.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. So it was after the petition date?</p> <p>14 MS. DEITSCH-PEREZ: Are you asking</p> <p>15 about the 2018 notes?</p> <p>16 MR. MORRIS: Yes, those are defined</p> <p>17 to be "the notes."</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. So -- so did -- this is your</p> <p>20 defense.</p> <p>21 Is it your position, Mr. Dondero,</p> <p>22 that in the first quarter of 2020, the</p> <p>23 plaintiff agreed that it would not collect on</p> <p>24 the notes?</p> <p>25 A. I -- I -- I don't -- I want to leave</p>

<p style="text-align: right;">Page 144</p> <p>1 Dondero - 5-28-2021</p> <p>2 my testimony as what I just said a minute ago.</p> <p>3 The notes were never part of any POT plan or</p> <p>4 suggested POT plan or suggested grand bargain</p> <p>5 or suggested as having any value starting in</p> <p>6 the first quarter of '20 – or most of the</p> <p>7 year, I believe, until the – towards the end</p> <p>8 of the year.</p> <p>9 Q. All right. Was there ever an</p> <p>10 agreement between you and the plaintiff that</p> <p>11 the plaintiff would not collect on the notes if</p> <p>12 there was no grand bargain or no POT plan?</p> <p>13 A. Yeah, the – I'm sorry. Repeat</p> <p>14 again.</p> <p>15 Q. Who entered the agreement on behalf</p> <p>16 of the debtor that the plaintiff would not</p> <p>17 collect on the notes?</p> <p>18 A. (Indiscernible speech.)</p> <p>19 Agreement on – you know, the –</p> <p>20 the – you know the – I think I'm looking at</p> <p>21 this question from a perspective of the</p> <p>22 negotiation, you know, at that time and not</p> <p>23 including the subsequent conditions that were</p> <p>24 overlaid on the notes, I guess. So I guess</p> <p>25 it's a combination of both.</p>	<p style="text-align: right;">Page 145</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. I'm asking you to identify the</p> <p>3 person who acted on behalf of the debtor in</p> <p>4 reaching the agreement with you that the</p> <p>5 plaintiff would not collect on the notes. Who</p> <p>6 did that?</p> <p>7 MS. DEITSCH-PEREZ: John, I think</p> <p>8 the problem is you're referring to the</p> <p>9 debtor, so he's looking at post-bankruptcy.</p> <p>10 You might ask it two questions, one –</p> <p>11 MR. MORRIS: No. Please stop.</p> <p>12 Please stop. Please stop.</p> <p>13 (Simultaneous conversation.)</p> <p>14 MS. DEITSCH-PEREZ: You agreed to</p> <p>15 that condition. You agreed to distinguish</p> <p>16 between the debtor –</p> <p>17 (Simultaneous conversation.)</p> <p>18 MR. MORRIS: Deborah –</p> <p>19 MS. DEITSCH-PEREZ: – bankruptcy –</p> <p>20 MR. MORRIS: Deborah –</p> <p>21 (Simultaneous conversation.)</p> <p>22 THE REPORTER: I can't – I can't</p> <p>23 write two people at the same time.</p> <p>24 MR. MORRIS: This is so improper.</p> <p>25 He has –</p>
<p style="text-align: right;">Page 146</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: It is not. You</p> <p>3 agreed –</p> <p>4 MR. MORRIS: Please let me finish.</p> <p>5 Please let me finish.</p> <p>6 He has described the conversations</p> <p>7 as taking place in 2020. I should be</p> <p>8 referring to the debtor. He is</p> <p>9 describing –</p> <p>10 MS. DEITSCH-PEREZ: Right.</p> <p>11 MR. MORRIS: – the context –</p> <p>12 MS. DEITSCH-PEREZ: But if you want</p> <p>13 to know about something that happened</p> <p>14 before bankruptcy, ask about Highland.</p> <p>15 MR. MORRIS: But I'm not. I</p> <p>16 don't – please stop interrupting.</p> <p>17 MS. DEITSCH-PEREZ: It's your</p> <p>18 deposition. If you want a muddy record, be</p> <p>19 my guest.</p> <p>20 MR. MORRIS: I would really</p> <p>21 appreciate it. I think I know what I'm</p> <p>22 doing.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Mr. Dondero, who, on behalf of the</p> <p>25 debtor, during these conversations about a</p>	<p style="text-align: right;">Page 147</p> <p>1 Dondero - 5-28-2021</p> <p>2 grand bargain and a POT plan told you or</p> <p>3 entered into the agreement that the plaintiff</p> <p>4 would not collect on the notes?</p> <p>5 A. I – I – during the bankruptcy,</p> <p>6 we're talking about, right?</p> <p>7 Q. I'm just following up on your</p> <p>8 statement that the conversation – that the</p> <p>9 agreement was entered into in the first quarter</p> <p>10 of 2020.</p> <p>11 Do I have that right, or is that</p> <p>12 wrong?</p> <p>13 A. Well –</p> <p>14 Q. Let's start again. Let's start</p> <p>15 again.</p> <p>16 This affirmative defense refers to</p> <p>17 an agreement. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. This is your affirmative defense;</p> <p>20 isn't that correct?</p> <p>21 A. Yes.</p> <p>22 Q. And according to this affirmative</p> <p>23 defense, the agreement was that the plaintiff</p> <p>24 would not collect on the notes. Do I have that</p> <p>25 right?</p>

<p style="text-align: right;">Page 148</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Let's start with: When was that</p> <p>4 agreement entered into?</p> <p>5 A. Okay. I'm going to have to parse,</p> <p>6 and I'm going to have to answer your question</p> <p>7 as accurately as I can.</p> <p>8 The subsequent conditions for</p> <p>9 forgiveness of the notes were established</p> <p>10 during a comp period in early 2019 for these</p> <p>11 notes that were drafted in '18.</p> <p>12 And the agreement was reached</p> <p>13 with – I believe it's a majority of, whatever,</p> <p>14 the Class A holders in the fourth amended</p> <p>15 Highland Capital partnership – partnership</p> <p>16 agreement. And that's what set up the</p> <p>17 subsequent conditions and the ability for the</p> <p>18 loans to be forgiven.</p> <p>19 When you get into bankruptcy,</p> <p>20 whether it was Seery, the independent board, or</p> <p>21 whoever, no one ever put any value nor was it</p> <p>22 ever included in any – were the notes included</p> <p>23 in any settlement discussions, period.</p> <p>24 Q. All right. So, it's your testimony</p> <p>25 that the debtor in settlement negotiations</p>	<p style="text-align: right;">Page 149</p> <p>1 Dondero - 5-28-2021</p> <p>2 never, ever, ever asked for or demanded the</p> <p>3 repayment of any unpaid principal or interest</p> <p>4 under these three notes?</p> <p>5 That's your sworn testimony?</p> <p>6 A. No.</p> <p>7 Q. So how did I get that wrong, then?</p> <p>8 A. Well, a few minutes ago we went over</p> <p>9 a letter from the debtor making a demand, but</p> <p>10 that was, I believe, this year or – yeah, I</p> <p>11 believe that was this year or the end of '20.</p> <p>12 What I'm saying is through '20, the</p> <p>13 full year of '20 when we were trying to work on</p> <p>14 a POT plan or global settlement before Seery</p> <p>15 betrayed the estate, we were – we never –</p> <p>16 there was never value assigned to the notes.</p> <p>17 Q. And you never offered to make any</p> <p>18 payment of any kind, principal or interest, on</p> <p>19 any of the notes in connection with any</p> <p>20 proposal you ever made as part of the grand</p> <p>21 bargain or POT plan; is that right?</p> <p>22 A. I think – I believe on the – not</p> <p>23 through 2020. I'll say that.</p> <p>24 By the time 2021 came along, on the</p> <p>25 eve of trial when I sent over a capitulation</p>
<p style="text-align: right;">Page 150</p> <p>1 Dondero - 5-28-2021</p> <p>2 offer – I think it was even titled that – I</p> <p>3 think I threw more money than everybody</p> <p>4 deserved or was entitled to, to try and resolve</p> <p>5 it. And implicitly, there was – because it</p> <p>6 was more than everybody was entitled to, I</p> <p>7 think implicitly it included value for the</p> <p>8 notes.</p> <p>9 Q. And is it your testimony that at no</p> <p>10 time prior to the delivery of the demand letter</p> <p>11 did the debtor ever make an offer to you or –</p> <p>12 of any kind that included any repayment of any</p> <p>13 principal or interest due under the three</p> <p>14 notes?</p> <p>15 A. I'm willing to be refreshed, but not</p> <p>16 that I recall.</p> <p>17 Q. Okay. And is it your testimony that</p> <p>18 anybody acting on behalf of the debtor ever</p> <p>19 agreed not to collect on the notes?</p> <p>20 A. I'm sorry. Repeat that one more</p> <p>21 time, just –</p> <p>22 Q. Is it your testimony – withdrawn.</p> <p>23 Did anybody acting on behalf of the</p> <p>24 debtor ever agree with you that it would not</p> <p>25 collect on the notes, irrespective of whether</p>	<p style="text-align: right;">Page 151</p> <p>1 Dondero - 5-28-2021</p> <p>2 there was a settlement?</p> <p>3 MS. DEITSCH-PEREZ: Object to form.</p> <p>4 A. Yeah. Again, that was my</p> <p>5 understanding through 2020.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Do you have –</p> <p>8 THE WITNESS: Let's – let's –</p> <p>9 before the next question, let's take a</p> <p>10 ten-minute break, ten-minute bathroom</p> <p>11 break, please.</p> <p>12 MR. MORRIS: No problem.</p> <p>13 MS. DEITSCH-PEREZ: Okay. We've</p> <p>14 been going an hour, so we'll come back</p> <p>15 at – 10:30, come back at 10:40?</p> <p>16 MR. MORRIS: That's fine. Thank</p> <p>17 you.</p> <p>18 (Recess held.)</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Is the agreement that you're</p> <p>21 referring to and that's referred to in</p> <p>22 paragraph 40, is that reflected in any document</p> <p>23 that you're aware of?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. And I believe you mentioned – and</p>

<p>Page 152</p> <p>1 Dondero - 5-28-2021</p> <p>2 we'll talk about this more later, but the part</p> <p>3 about the subsequent conditions or the</p> <p>4 conditions subsequent, that was the agreement</p> <p>5 that was entered into, did you say the – in</p> <p>6 part – as part of a compensation committee</p> <p>7 meeting?</p> <p>8 A. As part of our compensation process</p> <p>9 in – early in 2019.</p> <p>10 Q. Okay. And when you say "early</p> <p>11 2019," can you – do you recall what month?</p> <p>12 A. In January/February.</p> <p>13 Q. So, it's your testimony that in</p> <p>14 January or February 2019, you and the debtor</p> <p>15 reached the agreement that's referred to in</p> <p>16 paragraph 40 as subsequently amended by your</p> <p>17 amended answer; is that right?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 John, I thought you were going to</p> <p>21 agree to call Highland Highland –</p> <p>22 MR. MORRIS: That's fine. That's</p> <p>23 fine.</p> <p>24 (Simultaneous conversation.)</p> <p>25 MS. DEITSCH-PEREZ: – thereafter.</p>	<p>Page 153</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: That's fine. So, let</p> <p>3 me rephrase the question.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. I just want to make sure that I have</p> <p>6 this right, Mr. Dondero. It's your</p> <p>7 recollection that in January or February of</p> <p>8 2019, you reached an agreement with Highland</p> <p>9 that's reflected in paragraph 40 as</p> <p>10 subsequently amended to include the phrase</p> <p>11 "conditions subsequent." Do I have that right?</p> <p>12 A. I gave my testimony. I don't know</p> <p>13 if – I don't want to opine on the legal</p> <p>14 document and whether the legal document</p> <p>15 captures it there or somewhere else, but my –</p> <p>16 my recollection regarding pre-bankruptcy and</p> <p>17 post-bankruptcy is as I – as I stated already.</p> <p>18 Q. Let me – let me try this a</p> <p>19 different way.</p> <p>20 We looked at the three promissory</p> <p>21 notes. Were those promissory notes ever</p> <p>22 amended, to the best of your knowledge?</p> <p>23 A. No, not that – I mean, not – not</p> <p>24 in writing.</p> <p>25 Q. Okay.</p>
<p>Page 154</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. They were amended – they were</p> <p>3 amended – they were amended verbally.</p> <p>4 Q. Okay. And did that verbal agreement</p> <p>5 take place in January or February 2019?</p> <p>6 A. Yes.</p> <p>7 Q. Was there any verbal agreement</p> <p>8 related to the notes that occurred other than</p> <p>9 the one you're referring to in January or</p> <p>10 February 2019?</p> <p>11 A. Well, I gave my testimony during</p> <p>12 bankruptcy in 2020, the substance of all</p> <p>13 negotiations never assigned value to the – the</p> <p>14 notes.</p> <p>15 Q. But you never reached an agreement</p> <p>16 with the debtor on – on any settlement that</p> <p>17 would include either payment for or forgiveness</p> <p>18 of the notes; is that fair?</p> <p>19 You never reached an agreement?</p> <p>20 A. Not in writing, but I believe we</p> <p>21 were operating with an understanding that</p> <p>22 the – weren't likely to have value to the</p> <p>23 estate.</p> <p>24 MR. MORRIS: Okay. I move to</p> <p>25 strike, and I'll ask the question again.</p>	<p>Page 155</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Do you have any agreement with the</p> <p>4 debtor – agreement with the debtor with</p> <p>5 respect to any of the three notes?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. I believe the debtor in bankruptcy</p> <p>9 inherits that subsequent condition agreements</p> <p>10 from the first quarter of 2019; and I believe</p> <p>11 in 2020, the debtor operated and participated</p> <p>12 and acted in a way all negotiations that</p> <p>13 suggested the notes had – were unlikely to</p> <p>14 have any value to the estate.</p> <p>15 MR. MORRIS: Okay. I move to</p> <p>16 strike.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. And I'd ask you to please listen</p> <p>19 carefully to my question and only answer the</p> <p>20 question that's asked.</p> <p>21 Is there any agreement that pertains</p> <p>22 to the notes other than –</p> <p>23 MS. DEITSCH-PEREZ: Objection,</p> <p>24 asked –</p> <p>25 BY MR. MORRIS:</p>

<p>Page 156</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. – with –</p> <p>3 A. Yeah, I'm going to stick with my</p> <p>4 same answer that I've given twice.</p> <p>5 Q. I'm actually – I'm actually asking</p> <p>6 a different question; and if you would let me</p> <p>7 finish, this would go a lot more smoothly.</p> <p>8 Is there any agreement, written or</p> <p>9 verbal, between you and the debtor concerning</p> <p>10 the notes other than the verbal agreement that</p> <p>11 you contend was entered into in January and</p> <p>12 February 2019?</p> <p>13 I don't want to know about</p> <p>14 operations or offers or settlement discussions.</p> <p>15 I want to know about agreements: Is there any</p> <p>16 agreement pertaining to the notes other than</p> <p>17 the verbal agreement entered into in January or</p> <p>18 February 2019?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. Yes.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. What other agreement exists?</p> <p>24 A. The agreement between, I guess, me</p> <p>25 and to the extent other related parties that</p>	<p>Page 157</p> <p>1 Dondero - 5-28-2021</p> <p>2 had notes with the debtor, beginning in the</p> <p>3 first quarter after the bankruptcy, that the</p> <p>4 notes were unlikely to have any value to the</p> <p>5 estate or have any value in settlement.</p> <p>6 Q. Okay. I don't want to know about</p> <p>7 value. I want to know if there is an agreement</p> <p>8 not to collect.</p> <p>9 So let me try and answer – ask the</p> <p>10 question differently.</p> <p>11 Other than the agreement that you</p> <p>12 assert was entered into in January or</p> <p>13 February 2019, did anybody acting on behalf of</p> <p>14 Highland or the debtor enter into any other</p> <p>15 agreement pursuant to which the debtor agreed</p> <p>16 not to collect on the notes?</p> <p>17 A. I'm – I'm going – same answer:</p> <p>18 Implicitly, yes.</p> <p>19 Q. Okay. Is that – is that implicit</p> <p>20 agreement written down anywhere?</p> <p>21 You know what? I'm going to move</p> <p>22 on, Mr. Dondero, and I look forward to the jury</p> <p>23 trial.</p> <p>24 MR. MORRIS: Can we put up the next</p> <p>25 exhibit, Number 8?</p>
<p>Page 158</p> <p>1 Dondero - 5-28-2021</p> <p>2 (Exhibit 8 introduced.)</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Did you –</p> <p>5 MR. MORRIS: If we could scroll down</p> <p>6 a little bit.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Are you aware that the debtor served</p> <p>9 discovery in connection with this action?</p> <p>10 A. Not specifically.</p> <p>11 Q. Do you see that these are your</p> <p>12 objections and responses to the debtor's</p> <p>13 requests for admission?</p> <p>14 A. Yes.</p> <p>15 Q. Have you ever seen this document</p> <p>16 before?</p> <p>17 And we can scroll down, if you'd</p> <p>18 like.</p> <p>19 MS. DEITSCH-PEREZ: Scroll through</p> <p>20 it, please.</p> <p>21 THE WITNESS: Yeah, let's scroll</p> <p>22 through it.</p> <p>23 (Scrolling.)</p> <p>24 THE WITNESS: Can you keep going,</p> <p>25 please?</p>	<p>Page 159</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: That's the end.</p> <p>3 THE WITNESS: Okay.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Have you ever seen this document</p> <p>6 before, sir?</p> <p>7 A. I'm aware of it – I mean, yes, but</p> <p>8 I don't remember – ask whatever questions you</p> <p>9 want about it, and we'll go from there.</p> <p>10 Q. Did you see this document before –</p> <p>11 before it was sent to my firm on April 28th,</p> <p>12 2021?</p> <p>13 A. I mean, I'm sure I did and – or I'm</p> <p>14 sure I did if I was supposed to approve it, but</p> <p>15 I don't specifically remember.</p> <p>16 Q. And did you, in fact, authorize your</p> <p>17 attorneys to serve this particular document?</p> <p>18 A. I – I believe so.</p> <p>19 MR. MORRIS: Can we just go to the</p> <p>20 very last request for admission, number 14?</p> <p>21 (Scrolling.)</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. You'll see that Request For</p> <p>24 Admission Number 14 asks you to admit that as</p> <p>25 of January 22nd, 2021, you hadn't paid the</p>

<p>Page 160</p> <p>1 Dondero - 5-28-2021</p> <p>2 debtor the outstanding amount.</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And the definition of an</p> <p>6 "outstanding amount" is the number that's just</p> <p>7 above that.</p> <p>8 And in response, you admitted only</p> <p>9 that you hadn't paid the debtor the amount the</p> <p>10 debtor asserts is due on the notes in the</p> <p>11 amount of approximately \$9 million. Do you see</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. I just want to ask a slightly</p> <p>15 different question: Have you paid any amounts</p> <p>16 to the debtor on account of the notes since</p> <p>17 December 1st, 2020?</p> <p>18 A. I – I don't – I don't know for</p> <p>19 sure, but I don't believe so.</p> <p>20 Q. Okay.</p> <p>21 MR. MORRIS: Can we go to the next</p> <p>22 exhibit, please, Number 9?</p> <p>23 (Exhibit 9 introduced.)</p> <p>24 MR. MORRIS: Okay. And if we can</p> <p>25 scroll down just a little bit.</p>	<p>Page 161</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. You'll see that these are the</p> <p>4 "Objections and Answers" that were tendered on</p> <p>5 your behalf in response to the debtor's first</p> <p>6 set of interrogatories.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 MR. MORRIS: And if we can go to the</p> <p>10 last page.</p> <p>11 MS. DEITSCH-PEREZ: Could you also</p> <p>12 scroll through it so he could –</p> <p>13 MR. MORRIS: Well, I'm happy to do</p> <p>14 it. I'd like to do it my way, please.</p> <p>15 Thank you.</p> <p>16 Can we go to the last page, please?</p> <p>17 (Scrolling.)</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Is that your signature there, sir?</p> <p>20 A. Yes.</p> <p>21 Q. And did you sign this document in</p> <p>22 front of a notary public?</p> <p>23 A. Yes.</p> <p>24 Q. And did you certify that you had</p> <p>25 read the document and the objections to the</p>
<p>Page 162</p> <p>1 Dondero - 5-28-2021</p> <p>2 interrogatories?</p> <p>3 A. Yes.</p> <p>4 Q. And did you swear that the answers</p> <p>5 were true and correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 MR. MORRIS: Now let's go back to</p> <p>9 the top of the document.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Did you, in fact, read this document</p> <p>12 before you signed the Verification in front of</p> <p>13 a notary?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 MR. MORRIS: Go to page 4 of 6,</p> <p>17 please.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Just to help you out, do you see</p> <p>20 there's a reference to "Purported Agreement" in</p> <p>21 the first interrogatory, 1(a)?</p> <p>22 A. Uh-huh.</p> <p>23 Q. That's a "yes," sir, is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. The Purported Agreement</p>	<p>Page 163</p> <p>1 Dondero - 5-28-2021</p> <p>2 refers back to the agreement that we were</p> <p>3 looking at in paragraph 40 of the answer – and</p> <p>4 I can just read it again – that says – the</p> <p>5 agreement says, quote, "Plaintiff would not</p> <p>6 collect on the Notes."</p> <p>7 And I asked you three questions in</p> <p>8 the interrogatory. Did this interrogatory</p> <p>9 accurately state, to the best of your</p> <p>10 knowledge, that you, personally, entered into</p> <p>11 the Purported Agreement on behalf of the</p> <p>12 debtor?</p> <p>13 A. Which – which one are you – which</p> <p>14 agreement are you talking about?</p> <p>15 Q. Just the one that we were talking</p> <p>16 about earlier – and I'll just read it again</p> <p>17 for you. We can call it back on the screen, if</p> <p>18 it's helpful – but the agreement that you</p> <p>19 referred to in your answer that, quote,</p> <p>20 "plaintiff would not collect on the notes."</p> <p>21 That's the Purported Agreement.</p> <p>22 And so, I just want you to confirm</p> <p>23 that in your answer to Interrogatory No. 1, you</p> <p>24 stated that it was true and accurate that you</p> <p>25 entered into that agreement on behalf of the</p>

<p>Page 164</p> <p>1 Dondero - 5-28-2021</p> <p>2 debtor.</p> <p>3 Do I have that right?</p> <p>4 A. I'm -- I'm going to say no because I</p> <p>5 think you're using the wrong description of the</p> <p>6 debtor versus Highland prebankruptcy.</p> <p>7 Q. I appreciate that. I apologize.</p> <p>8 Let me rephrase the question. That's a fair</p> <p>9 point.</p> <p>10 Did you enter into the agreement</p> <p>11 referred to in your answer on behalf of</p> <p>12 Highland?</p> <p>13 A. The -- the agreement on behalf of</p> <p>14 Highland prebankruptcy was agreed to by</p> <p>15 majority of the Class A members, which I</p> <p>16 believe at the time was Dugaboy.</p> <p>17 Q. All right. That doesn't say that in</p> <p>18 your answer here, does it?</p> <p>19 A. Again, there was an original, I</p> <p>20 think, answers; and then there were amended</p> <p>21 answers. I think the lawyers did the best they</p> <p>22 could to capture -- but, evidently, the parsing</p> <p>23 between pre-bankruptcy agreements and</p> <p>24 post-bankruptcy agreements was done the best it</p> <p>25 could be by the lawyers but I -- I -- I don't</p>	<p>Page 165</p> <p>1 Dondero - 5-28-2021</p> <p>2 want to comment on the legal.</p> <p>3 Q. I don't want to comment on legal</p> <p>4 stuff, either; but you signed this document,</p> <p>5 you verified this document, and you verified</p> <p>6 that it was true and accurate. Correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And in the first sentence to</p> <p>9 your answer in Interrogatory 1, you wrote, or</p> <p>10 somebody wrote on your behalf, quote: "The</p> <p>11 agreements were entered into on behalf of the</p> <p>12 debtor by James Dondero, subsequent to the time</p> <p>13 each note was executed."</p> <p>14 Is that an accurate statement, or is</p> <p>15 it an inaccurate statement?</p> <p>16 A. Again, it was between me and the</p> <p>17 Class A, the majority of the Class A members.</p> <p>18 It was a Class A -- the Class A members were</p> <p>19 representing Highland, never the debtor,</p> <p>20 because the debtor didn't exist yet.</p> <p>21 But then, again, I don't know if</p> <p>22 this paragraph refers to, again, how we</p> <p>23 operated in bankruptcy, which was the</p> <p>24 assumption that the notes had -- were likely --</p> <p>25 were not likely to have any value for the</p>
<p>Page 166</p> <p>1 Dondero - 5-28-2021</p> <p>2 estate. I don't -- I don't know which this is</p> <p>3 referring to.</p> <p>4 Q. You understand that the definition</p> <p>5 of the "debtor" includes Highland Capital</p> <p>6 Management, L.P.?</p> <p>7 A. I think we started off the depo by</p> <p>8 saying that there was a Highland prior to</p> <p>9 bankruptcy and then there was a Highland in</p> <p>10 bankruptcy and the debtor is Highland in</p> <p>11 bankruptcy.</p> <p>12 Q. Let me just ask you this question,</p> <p>13 sir: Is that first sentence accurate, or is it</p> <p>14 wrong?</p> <p>15 I didn't write it, so -- and you</p> <p>16 swore to it. You're the one who said it was</p> <p>17 true and accurate. So now I'm asking you: Is</p> <p>18 it actually true and accurate?</p> <p>19 A. I'm going to stick with my testimony</p> <p>20 so far. I don't want to opine on that. I</p> <p>21 think it depends -- it's not -- maybe it's not</p> <p>22 perfectly written, but...</p> <p>23 Q. Sir, with all due respect, please</p> <p>24 answer my question: Is the first sentence true</p> <p>25 and correct, as you verified?</p>	<p>Page 167</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: He already</p> <p>3 answered your question, John.</p> <p>4 MR. MORRIS: That's fine. You can</p> <p>5 have the objection, asked and answered.</p> <p>6 I'm asking him to answer again.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Is that first sentence true and</p> <p>9 correct as you verified it?</p> <p>10 A. "Behalf" probably isn't, like I</p> <p>11 said, the right word. It should be "between"</p> <p>12 the debtor and James Dondero. So that's how I</p> <p>13 would wordsmith that.</p> <p>14 Q. Okay. So this -- this first</p> <p>15 sentence is not true and correct, to the best</p> <p>16 of your knowledge; is that fair?</p> <p>17 A. I -- I don't want to say that other</p> <p>18 than I think it could be stated better.</p> <p>19 Q. Okay. But as stated right now, it</p> <p>20 says that the agreement was entered into on</p> <p>21 behalf of the debtor by James Dondero. Have I</p> <p>22 read that correctly?</p> <p>23 A. Yeah. I mean, that is what it says.</p> <p>24 Again, I feel like I'm interpreting legal</p> <p>25 phraseology here, like "on behalf of the</p>

<p style="text-align: right;">Page 168</p> <p>1 Dondero - 5-28-2021</p> <p>2 debtor." If it was an agreement between the</p> <p>3 debtor and the Class A entered into –</p> <p>4 MS. DEITSCH-PEREZ: Mr. Morris knows</p> <p>5 very well there's another – that there's</p> <p>6 an amendment to this. I don't know why</p> <p>7 he's doing this.</p> <p>8 Mr. Morris –</p> <p>9 (Simultaneous conversation.)</p> <p>10 MR. MORRIS: Please stop. Please</p> <p>11 stop.</p> <p>12 I'm allowed to go through his sworn</p> <p>13 statements. Give me a break. Please stop.</p> <p>14 Don't coach –</p> <p>15 MS. DEITSCH-PEREZ: You've been</p> <p>16 asking the same question over and over and</p> <p>17 over.</p> <p>18 MR. MORRIS: You know, I'm going to</p> <p>19 shut this down if you do it one more time.</p> <p>20 I will, and I'm happy to make the motion to</p> <p>21 the Judge. I'm begging you, please stop</p> <p>22 interfering.</p> <p>23 My apologies, Mr. Dondero. Never</p> <p>24 directed at you personally.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 169</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. The second sentence of the answer,</p> <p>3 have you been able to identify any documents</p> <p>4 that reflect or memorialize the agreements?</p> <p>5 A. I mean, I – I – I don't – I don't</p> <p>6 know, but I don't think so.</p> <p>7 Q. Thank you very much.</p> <p>8 MR. MORRIS: Go to the next</p> <p>9 document, please.</p> <p>10 (Exhibit 10 introduced.)</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Do you see that this is the "Amended</p> <p>13 Answer" that was filed on your behalf?</p> <p>14 MS. DEITSCH-PEREZ: Let's please –</p> <p>15 THE WITNESS: Yes.</p> <p>16 MS. DEITSCH-PEREZ: – scroll</p> <p>17 through.</p> <p>18 THE WITNESS: Yeah, please scroll</p> <p>19 through.</p> <p>20 (Scrolling.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. All right. Have you seen this</p> <p>23 document before, sir?</p> <p>24 A. Yes, generally.</p> <p>25 Q. Did you – do you recall if you saw</p>
<p style="text-align: right;">Page 170</p> <p>1 Dondero - 5-28-2021</p> <p>2 it prior to the time it was served and filed on</p> <p>3 your behalf?</p> <p>4 A. Probably.</p> <p>5 Q. Did you authorize it to be filed on</p> <p>6 your behalf?</p> <p>7 A. Yes.</p> <p>8 MR. MORRIS: Can we please go to</p> <p>9 page 6 of 8?</p> <p>10 (Scrolling.)</p> <p>11 MR. MORRIS: And if we can scroll</p> <p>12 just down to the "Affirmative Defenses."</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. All right. Do you see</p> <p>15 paragraph 40 –</p> <p>16 A. Yeah.</p> <p>17 Q. – as compared to the prior version</p> <p>18 of your answer, has added the words, quote,</p> <p>19 "upon fulfillment of conditions subsequent."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. Why were those words added?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. I think to make this document more</p>	<p style="text-align: right;">Page 171</p> <p>1 Dondero - 5-28-2021</p> <p>2 complete and more clarified as things were</p> <p>3 learned and investigated.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. And were things "learned and</p> <p>6 investigated" after the time that you submitted</p> <p>7 the – withdrawn.</p> <p>8 Were things "learned and</p> <p>9 investigated" after the time the original</p> <p>10 answer was served and filed on your behalf?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 And I would also just caution the</p> <p>14 witness before he speaks to think – to</p> <p>15 make sure he doesn't disclose</p> <p>16 attorney-client communications.</p> <p>17 A. I'm sorry, could you please repeat</p> <p>18 the question?</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Sure. Did you, personally, learn or</p> <p>21 discover anything related to this amended</p> <p>22 paragraph 40 after the time that the original</p> <p>23 answer was filed on your behalf?</p> <p>24 MS. DEITSCH-PEREZ: Same objection.</p> <p>25 A. We went through the – the –</p>

<p style="text-align: right;">Page 172</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: When you say</p> <p>3 "we," are you talking about you and</p> <p>4 lawyers?</p> <p>5 THE WITNESS: Yes.</p> <p>6 MS. DEITSCH-PEREZ: Don't disclose</p> <p>7 your communications with lawyers.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. All right. I don't want to know</p> <p>10 anything about your communications with</p> <p>11 lawyers, but I'm going to ask you for facts.</p> <p>12 What facts, if any, did you learn</p> <p>13 after the original answer was filed that relate</p> <p>14 to the words, quote, "upon fulfillment of</p> <p>15 conditions subsequent."</p> <p>16 A. The "conditions subsequent" involved</p> <p>17 in the first quarter of 2019 were always an</p> <p>18 event, but it wasn't captured properly or</p> <p>19 needed to be clarified in the amendment.</p> <p>20 Q. Well, you mentioned that "things</p> <p>21 were learned and investigated" after the answer</p> <p>22 was filed, and I'm just trying to pin down what</p> <p>23 that was?</p> <p>24 A. I – I took it more seriously with</p> <p>25 the lawyers as it – as the notes became more</p>	<p style="text-align: right;">Page 173</p> <p>1 Dondero - 5-28-2021</p> <p>2 of an issue, and it's – I'm very busy over</p> <p>3 here and then spent more time going through the</p> <p>4 details, and this needed to be clarified or</p> <p>5 stated differently.</p> <p>6 Q. Okay. With respect to the agreement</p> <p>7 referred to in paragraph 40, whose idea was it</p> <p>8 to enter into that agreement?</p> <p>9 A. It was – it was mine.</p> <p>10 Q. Okay. And who were – who were the</p> <p>11 majority of Class A holders that you referred</p> <p>12 to earlier?</p> <p>13 A. That was the counterparty</p> <p>14 decision-maker for Highland prior to</p> <p>15 bankruptcy, and like I said, I believe it was</p> <p>16 Dugaboy.</p> <p>17 Q. Can you think of any other member of</p> <p>18 Class A who entered into this agreement on</p> <p>19 behalf of the debtor in the early part of 2019</p> <p>20 other than Dugaboy?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. I do believe it was necessary.</p> <p>24 Dugaboy alone was the requisite majority. I</p> <p>25 didn't – I don't remember or remember even</p>
<p style="text-align: right;">Page 174</p> <p>1 Dondero - 5-28-2021</p> <p>2 thinking about including anybody else.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Okay. And to be clear, Mr. Dondero,</p> <p>5 I'm not – I don't have a view one way or the</p> <p>6 other as to whether you should or shouldn't –</p> <p>7 who you should have contacted.</p> <p>8 I just want to know who – if you</p> <p>9 can identify for me the Class A members who</p> <p>10 acted to approve the agreement that's referred</p> <p>11 to in paragraph 40.</p> <p>12 Is there anybody other than Dugaboy?</p> <p>13 A. Not – not – not – not</p> <p>14 specifically regarding that comp cycle.</p> <p>15 Q. Okay. And who acted on behalf of</p> <p>16 Dugaboy to enter into the agreement that's</p> <p>17 referred to in paragraph 40?</p> <p>18 A. The trustee.</p> <p>19 Q. The trustee of Dugaboy?</p> <p>20 A. Yes.</p> <p>21 Q. And who was the trustee of Dugaboy</p> <p>22 in the January/February 2019 time period that</p> <p>23 entered into this agreement on behalf of the</p> <p>24 debtor?</p> <p>25 A. My sister Nancy.</p>	<p style="text-align: right;">Page 175</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Did you and Nancy discuss this</p> <p>3 agreement at all?</p> <p>4 A. This agreement? No.</p> <p>5 Q. Can you describe –</p> <p>6 MS. DEITSCH-PEREZ: What do you mean</p> <p>7 by "this agreement"?</p> <p>8 (Simultaneous conversation.)</p> <p>9 A. Not the one that's on the screen.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Yes. That's the only one that I'm</p> <p>12 talking about, so –</p> <p>13 MS. DEITSCH-PEREZ: So you mean –</p> <p>14 MR. MORRIS: Please, please, Deb –</p> <p>15 MS. DEITSCH-PEREZ: John, can you</p> <p>16 please clarify: Are you asking if he</p> <p>17 discussed the answer with Nancy or the –</p> <p>18 MR. MORRIS: I didn't use the word</p> <p>19 "answer." I used the word "agreement," so</p> <p>20 let me –</p> <p>21 MS. DEITSCH-PEREZ: I know, but he</p> <p>22 pointed to the screen.</p> <p>23 (Simultaneous conversation.)</p> <p>24 MR. MORRIS: Are you done?</p> <p>25 MS. DEITSCH-PEREZ: Yes.</p>

<p>Page 176</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Mr. Dondero, can you describe for</p> <p>4 me – withdrawn.</p> <p>5 Did you discuss with your sister</p> <p>6 Nancy, the agreement that's referred to in</p> <p>7 paragraph 40?</p> <p>8 A. The agreement to subsequent</p> <p>9 conditions, yes, absolutely. But this</p> <p>10 agreement that's on the screen, I've never –</p> <p>11 I've never – I've never shown her this</p> <p>12 document or talked to her about it.</p> <p>13 Q. I'm not asking about the document.</p> <p>14 I'm not asking about the document. I'm asking</p> <p>15 about the agreement that's referred to in</p> <p>16 paragraph 40.</p> <p>17 Do you understand that?</p> <p>18 A. Yes. And, yes, we had several</p> <p>19 conversations about it.</p> <p>20 Q. Okay. Can you describe for me</p> <p>21 everything you remember about your discussions</p> <p>22 with Nancy concerning the agreement that's</p> <p>23 referred to in paragraph 40?</p> <p>24 A. That the loans that were in place</p> <p>25 would be forgiven upon a monetization – the</p>	<p>Page 177</p> <p>1 Dondero - 5-28-2021</p> <p>2 favorable monetization of certain large or</p> <p>3 liquid assets on the Highland balance sheet;</p> <p>4 and the three that were focused on was MGM,</p> <p>5 Trussway, and Cornerstone.</p> <p>6 Q. Did she say anything in response?</p> <p>7 A. Just, "How much are we talking</p> <p>8 about?" And I told her it was about 9 million</p> <p>9 in aggregate, and – and I told her that it</p> <p>10 was – that the forgiveness or the compensation</p> <p>11 was compliant regarding any credit covenants or</p> <p>12 Hunter Mountain covenants –</p> <p>13 Q. Do you recall any –</p> <p>14 A. – that – that if it were to be</p> <p>15 forgiven, that additional compensation would be</p> <p>16 compliant or permitted and really not material</p> <p>17 relative to any outstanding credit agreements</p> <p>18 that Highland had or agreements with Hunter</p> <p>19 Mountain.</p> <p>20 Q. Is this something that you discussed</p> <p>21 with her, or is this just information that</p> <p>22 you're giving me?</p> <p>23 A. This is what I discussed – that's</p> <p>24 almost the entirety of the conversation. It</p> <p>25 happened over a couple different conversations,</p>
<p>Page 178</p> <p>1 Dondero - 5-28-2021</p> <p>2 but...</p> <p>3 Q. Did anybody participate in any of</p> <p>4 the conversations you're describing other than</p> <p>5 you and your sister?</p> <p>6 A. I don't believe it was necessary, it</p> <p>7 didn't include anybody else.</p> <p>8 Q. Okay. Again, I'm not here to</p> <p>9 question. I'm just looking for facts,</p> <p>10 Mr. Dondero.</p> <p>11 So nobody participated in any of</p> <p>12 these conversations that you can recall other</p> <p>13 than you and Nancy; is that correct?</p> <p>14 A. Correct, that I – yes, there was</p> <p>15 never a third party involved in our</p> <p>16 conversations. I don't know – I don't think</p> <p>17 she discussed it with anybody else, but I don't</p> <p>18 know.</p> <p>19 Q. Did – was the agreement subject to</p> <p>20 any negotiation? Did she make any</p> <p>21 counterproposal of any kind?</p> <p>22 A. No. No, I – again, I believe both</p> <p>23 of our views at the time was that it was</p> <p>24 immaterial to Highland overall or any other</p> <p>25 agreements.</p>	<p>Page 179</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Do you know if she sought any</p> <p>3 independent advice before entering into the</p> <p>4 agreement that you've described?</p> <p>5 A. I don't know.</p> <p>6 Q. Do you recall whether you provided</p> <p>7 her with any documents of any kind in</p> <p>8 connection with the discussions that led to the</p> <p>9 agreement that's referred to in paragraph 40?</p> <p>10 A. I – I have no – I don't – I don't</p> <p>11 believe – no, I don't believe I gave her</p> <p>12 copies of the relevant Hunter Mountain</p> <p>13 limitations, or whatever. I just spoke to her</p> <p>14 about it.</p> <p>15 Q. Okay. I'm just asking – I'm asking</p> <p>16 a broader question: Do you recall giving her</p> <p>17 any documents of any kind in connection with</p> <p>18 the discussions that led to the agreement in</p> <p>19 paragraph 40?</p> <p>20 A. Not – not that I recall. She –</p> <p>21 she may – she may have some, but I don't</p> <p>22 remember.</p> <p>23 Q. Do you know if there were any</p> <p>24 resolutions that were adopted by Highland to</p> <p>25 reflect the agreement that's referred to in</p>

<p>Page 180</p> <p>1 Dondero - 5-28-2021</p> <p>2 paragraph 40?</p> <p>3 A. Resolutions that – no, not that I'm</p> <p>4 aware of.</p> <p>5 Q. Did you give – did you give Nancy a</p> <p>6 copy of the three promissory notes that were</p> <p>7 the subject of the agreement referred to in</p> <p>8 paragraph 40?</p> <p>9 A. No.</p> <p>10 Q. Did she ask to see any documents</p> <p>11 before entering into the agreement that's</p> <p>12 referred to in paragraph 40?</p> <p>13 A. I – I don't remember.</p> <p>14 Q. Did you suggest that she speak with</p> <p>15 anybody prior to the time that she entered into</p> <p>16 the agreement that's referred to in</p> <p>17 paragraph 40?</p> <p>18 MS. DEITSCH-PEREZ: Asked and</p> <p>19 answered.</p> <p>20 A. Yeah. No.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you know whether she actually</p> <p>23 spoke with anybody concerning the subject</p> <p>24 matter of the agreement that's referred to in</p> <p>25 paragraph 40 prior to the time it was entered</p>	<p>Page 181</p> <p>1 Dondero - 5-28-2021</p> <p>2 into?</p> <p>3 A. I don't know.</p> <p>4 Q. Is there any time period by which</p> <p>5 the subsequent – the conditions subsequent</p> <p>6 have to be fulfilled, or are they open-ended?</p> <p>7 A. I believe it was open-ended.</p> <p>8 Q. Under the agreement that's referred</p> <p>9 to in paragraph 40, did the debtor surrender</p> <p>10 its right to make a demand under the promissory</p> <p>11 notes?</p> <p>12 MS. DEITSCH-PEREZ: And, again, are</p> <p>13 you talking about the debtor as in</p> <p>14 post-bankruptcy or –</p> <p>15 MR. MORRIS: I apologize. Thank</p> <p>16 you. Thank you. Thank you. Thank you.</p> <p>17 Withdrawn.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Under the agreement that you reached</p> <p>20 with Nancy that's referred to in paragraph 40,</p> <p>21 was it your understanding that Highland</p> <p>22 surrendered its right to make a demand for</p> <p>23 payment of unpaid principal and interest under</p> <p>24 the notes?</p> <p>25 A. I think essentially, yes.</p>
<p>Page 182</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay. What did Highland receive in</p> <p>3 return for its agreement to surrender its right</p> <p>4 to make a demand for unpaid principal and</p> <p>5 interest, if anything?</p> <p>6 A. I think with all forgiveness of</p> <p>7 notes, what it gets is it gets focus in terms</p> <p>8 of the monetization and it reduces additional</p> <p>9 compensation that I could have/would have taken</p> <p>10 otherwise, or could have/would have been</p> <p>11 entitled to otherwise.</p> <p>12 So, it's – yeah, I mean, I think</p> <p>13 it's, again, heightened focused for something</p> <p>14 that would be great for the debtor or great for</p> <p>15 Highland at the time and reduces – that form</p> <p>16 of forgiveness becomes compensation when and if</p> <p>17 it occurs, and then it – it theoretically</p> <p>18 reduces other compensation.</p> <p>19 Q. So why not just forgive it at that</p> <p>20 moment?</p> <p>21 Why tie it to "conditions</p> <p>22 subsequent"?</p> <p>23 A. I thought it was more appropriate.</p> <p>24 Q. Did you and Nancy discuss at all</p> <p>25 what the benefit would be to Highland from this</p>	<p>Page 183</p> <p>1 Dondero - 5-28-2021</p> <p>2 arrangement?</p> <p>3 A. The focus – the focus parts for</p> <p>4 sure.</p> <p>5 Q. And without – without the agreement</p> <p>6 that's referred to in paragraph 40, you</p> <p>7 wouldn't have been focused on maximizing the</p> <p>8 enterprises; is that right?</p> <p>9 A. No.</p> <p>10 Q. So – I'm sorry, maybe I missed it.</p> <p>11 When you used the word "focus" –</p> <p>12 let me – when you use the word "focus," what</p> <p>13 do you mean?</p> <p>14 What is the benefit to the debtor?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 He said "heightened focus."</p> <p>18 A. Yeah, heightened focused was my</p> <p>19 words, which –</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Okay.</p> <p>22 A. – you know, means beyond normal</p> <p>23 focus. It means additional effort just like in</p> <p>24 any company or what we do here with other</p> <p>25 employees, for things you really want to get</p>

<p>Page 184</p> <p>1 Dondero - 5-28-2021</p> <p>2 done or focus on, you provide that extra</p> <p>3 incentive.</p> <p>4 Q. Okay. So – so that's the benefit</p> <p>5 to Highland, was that you were going to have a</p> <p>6 heightened focus on maximizing value; is that</p> <p>7 fair?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. And then also the part 2 of my</p> <p>11 answer, right, which, you know, that</p> <p>12 forgiveness would be compensation which</p> <p>13 would – in any given year, additional</p> <p>14 compensation coming from forgiveness reduces</p> <p>15 other compensation.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Was that part of the agreement that</p> <p>18 you reached with Nancy? Was that – was that</p> <p>19 when these notes were forgiven, you would forgo</p> <p>20 an amount equivalent to the outstanding</p> <p>21 principal and unpaid interest?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form, misstates his prior testimony.</p> <p>24 A. Yeah. I remember discussing the</p> <p>25 focus part with her. The – I was giving that</p>	<p>Page 185</p> <p>1 Dondero - 5-28-2021</p> <p>2 answer when you were asking me what would be</p> <p>3 the benefit or consideration to Highland and</p> <p>4 then ultimately to debtor. I was giving you</p> <p>5 compensation answer.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Okay. So I just – but I do want to</p> <p>8 try to understand from your perspective the</p> <p>9 benefit to the debtor.</p> <p>10 And, one, you told me about the</p> <p>11 heightened focus, and the second –</p> <p>12 A. Right.</p> <p>13 Q. – I think you said, and correct me</p> <p>14 if I'm wrong, that it would relieve the debtor</p> <p>15 of paying some compensation in the future.</p> <p>16 Am I mistaken about that?</p> <p>17 A. Yeah, I mean – I'm sorry. Repeat</p> <p>18 that one more time, please.</p> <p>19 Q. I believe you said that the second</p> <p>20 benefit to Highland from entering into the</p> <p>21 agreement referred to in paragraph 40 is that</p> <p>22 it would relieve them of a future obligation to</p> <p>23 pay compensation in the same amount.</p> <p>24 Do I have that right?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p>Page 186</p> <p>1 Dondero - 5-28-2021</p> <p>2 form.</p> <p>3 A. Maybe not exactly "the same amount,"</p> <p>4 but it would – it would – it would reduce</p> <p>5 comp – yes, it would – it would, like, in the</p> <p>6 next cycle, reduce – or when it was realized,</p> <p>7 would likely reduce comp then.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Okay. And by what amount would it</p> <p>10 likely reduce comp, then?</p> <p>11 A. I don't know. By significant –</p> <p>12 by – by a significant amount, by something</p> <p>13 similar to the 9 million bucks.</p> <p>14 Q. Okay. So, is there any – I'm just</p> <p>15 trying to understand your perspective.</p> <p>16 One of the benefits from entering</p> <p>17 into the agreement referred to in paragraph 40</p> <p>18 is that upon the realization of the forgiveness</p> <p>19 of the debt, Highland or the debtor, whatever</p> <p>20 the case may be, in the future would be</p> <p>21 relieved from paying you an amount similar to</p> <p>22 the principal amount of the notes?</p> <p>23 Do I have that right?</p> <p>24 A. Yeah, or – or – yeah. I guess the</p> <p>25 reason why I keep going back and forth on the</p>	<p>Page 187</p> <p>1 Dondero - 5-28-2021</p> <p>2 exactness of the answer is that if –</p> <p>3 there's – depending on what the compensation</p> <p>4 target is and whether or not you wanted to grow</p> <p>5 something up or you're looking for a net</p> <p>6 amount, but forgiveness of debt becomes a</p> <p>7 taxable event with no – no additional ability</p> <p>8 to pay taxes. So it's usually not an exact</p> <p>9 offset to future compensation, the way we've</p> <p>10 done it here historically.</p> <p>11 Q. In the agreement that you reached</p> <p>12 with Nancy that's referred to in paragraph 40,</p> <p>13 were there any other – withdrawn.</p> <p>14 In the agreement that you reached</p> <p>15 with Nancy that's referred to in paragraph 40,</p> <p>16 were there any circumstances under which you</p> <p>17 would have been obligated to pay all unpaid</p> <p>18 principal and interest under the notes?</p> <p>19 A. If the illiquid assets weren't – or</p> <p>20 if – if none of the illiquid assets were</p> <p>21 monetized.</p> <p>22 Q. But you were – you were, at the</p> <p>23 time you entered into this oral agreement, in</p> <p>24 control of whether or not to monetize those</p> <p>25 illiquid assets, right?</p>

<p>Page 188</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. And I expected they would be over</p> <p>3 time, yes.</p> <p>4 Q. Okay. So, based on your control of</p> <p>5 the enterprise at the time that you entered</p> <p>6 into the agreement, is there any – did you</p> <p>7 have any – any scenario under which you</p> <p>8 believed you might actually have to pay back</p> <p>9 the unpaid principal and interest due under the</p> <p>10 notes?</p> <p>11 A. If they weren't monetized.</p> <p>12 Q. Okay. Anything else?</p> <p>13 A. Assets weren't monetized, yeah.</p> <p>14 Q. Anything else?</p> <p>15 A. That's – that's my recollection.</p> <p>16 Q. If – if you – have the "conditions</p> <p>17 subsequent" been met yet?</p> <p>18 A. I believe the announcement of the</p> <p>19 MGM sale will meet the conditions precedent</p> <p>20 when it closes four or five months from now.</p> <p>21 Q. Okay. But none of them have been</p> <p>22 met – have the conditions subsequent been met</p> <p>23 as of today?</p> <p>24 A. Have the conditions subsequent been</p> <p>25 met today. I don't have awareness of –</p>	<p>Page 189</p> <p>1 Dondero - 5-28-2021</p> <p>2 despite objecting vehemently, we don't have</p> <p>3 awareness of what the debtor is doing with</p> <p>4 Trussway or Cornerstone. So there's a</p> <p>5 potential that those could have triggered, but</p> <p>6 I don't – I don't have – I don't have</p> <p>7 awareness.</p> <p>8 Q. Okay. Do you know – and forgive</p> <p>9 the question, sir, honestly. But do you</p> <p>10 know –</p> <p>11 A. Sure.</p> <p>12 Q. – whether your estate would be</p> <p>13 liable to pay all of the undue principal –</p> <p>14 unpaid principal and interest if you passed</p> <p>15 before the conditions subsequent were</p> <p>16 satisfied?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. I – I don't know that answer.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. That wasn't something that you and</p> <p>22 your sister discussed in January or February of</p> <p>23 2019; is that fair?</p> <p>24 A. I wasn't contemplating that event at</p> <p>25 that point in time.</p>
<p>Page 190</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. That's why I say "forgive the</p> <p>3 question," sir.</p> <p>4 Did you ever ask anybody to write</p> <p>5 the agreement in paragraph 40 down on paper so</p> <p>6 that it was memorialized somewhere?</p> <p>7 A. No.</p> <p>8 Q. Did you and Nancy –</p> <p>9 (Simultaneous conversation.)</p> <p>10 A. I'm sorry, go ahead.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Do you and Nancy communicate by</p> <p>13 email from time to time?</p> <p>14 A. Almost entirely phone. I – from</p> <p>15 time to time, but it's almost entirely phone.</p> <p>16 Q. All right. Let's – let's move on.</p> <p>17 A. Can I clarify something from before?</p> <p>18 Q. Of course.</p> <p>19 A. If the assets were never monetized</p> <p>20 or the – the notes would stay in place and not</p> <p>21 be forgiven.</p> <p>22 If the assets were all monetized</p> <p>23 below cost or what was considered a less</p> <p>24 favorable scenario, then it would be – to</p> <p>25 forgive it, something would have to be</p>	<p>Page 191</p> <p>1 Dondero - 5-28-2021</p> <p>2 monetized above cost, you know; but if they</p> <p>3 were all monetized below cost, that would make</p> <p>4 the note payable.</p> <p>5 Q. I appreciate that.</p> <p>6 MR. MORRIS: Let's go to the next</p> <p>7 document, document Number 11.</p> <p>8 (Exhibit 11 introduced.)</p> <p>9 MR. MORRIS: If we could just scroll</p> <p>10 down, please.</p> <p>11 (Scrolling.)</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. All right. Now, these are your</p> <p>14 objections and responses to the debtor's second</p> <p>15 request for admissions. Do you see that?</p> <p>16 A. Yes.</p> <p>17 MR. MORRIS: And let's scroll down</p> <p>18 to page 4, please.</p> <p>19 (Scrolling.)</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Okay. Do you recall whether you saw</p> <p>22 this document before it was served and filed on</p> <p>23 your behalf?</p> <p>24 A. Yes. Can we go all the way through,</p> <p>25 just go all the way down?</p>

<p style="text-align: right;">Page 192</p> <p>1 Dondero - 5-28-2021</p> <p>2 Was this notarized, also?</p> <p>3 Q. No, because these are responses to</p> <p>4 requests to admit. You only –</p> <p>5 A. Okay.</p> <p>6 Q. You only notarize responses to</p> <p>7 interrogatories, for whatever reason. So these</p> <p>8 were not. Yeah.</p> <p>9 But I'm just asking you if you have</p> <p>10 a memory of reviewing the requests for</p> <p>11 admission before they were served and filed on</p> <p>12 your behalf?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And did you authorize your</p> <p>15 lawyers to serve and file this document on your</p> <p>16 behalf?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Looking at Request For</p> <p>19 Admission Number 1, it asks you to admit that</p> <p>20 in December 2019, you made a payment to the</p> <p>21 debtor, a portion of which was applied to</p> <p>22 reduce principal and/or interest due under one</p> <p>23 or more of the notes.</p> <p>24 Have I read that correctly?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 193</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. And you've admitted that that</p> <p>3 statement is true and accurate as written,</p> <p>4 right?</p> <p>5 A. Yeah, I believe so. The – yeah, I</p> <p>6 believe so. Let me let you ask the questions.</p> <p>7 Q. Okay. Do you have any reason to</p> <p>8 believe, as you sit here right now – let me</p> <p>9 ask you a different question.</p> <p>10 Do you want to amend your response</p> <p>11 in any way right now?</p> <p>12 A. I – I'm not aware of small amounts</p> <p>13 in terms of, like, interest or principal; and</p> <p>14 then sometimes the tax guys will say periodic</p> <p>15 interest payments are important to – for the</p> <p>16 character of the notes, so sometimes periodic</p> <p>17 interest payments are made. Sometimes I think</p> <p>18 they peck on some of the notes.</p> <p>19 I don't – I don't know or remember,</p> <p>20 but I hope that something like this is correct.</p> <p>21 Sometimes, if there was a need for cash into</p> <p>22 Highland, the easiest way to – for me or a</p> <p>23 different entity to put cash into Highland was</p> <p>24 to reduce a principal amount of a note with the</p> <p>25 thought that we could create new notes or</p>
<p style="text-align: right;">Page 194</p> <p>1 Dondero - 5-28-2021</p> <p>2 increase another note later.</p> <p>3 So how many times or how often</p> <p>4 interest payments were made or if there was</p> <p>5 some small principal payment made at some</p> <p>6 point, I don't know the details; but I'm hoping</p> <p>7 that's accurate.</p> <p>8 Q. Okay. We looked at three notes that</p> <p>9 were signed by you in 2018, correct?</p> <p>10 A. Yes.</p> <p>11 Q. You signed other notes in favor of</p> <p>12 Highland prior to that time, correct?</p> <p>13 A. I believe – yeah. I mean, I</p> <p>14 believe there were numerous notes beyond these.</p> <p>15 Q. Were – were – did you ever sign a</p> <p>16 note in favor of Highland that was forgiven?</p> <p>17 A. I don't – I don't know.</p> <p>18 Q. Do you have any recollection of ever</p> <p>19 paying taxes in connection with a note that was</p> <p>20 subsequently forgiven by Highland?</p> <p>21 A. If there was – if there was a</p> <p>22 forgiveness and it was taxable, I would have</p> <p>23 paid the taxes. We were compliant in that</p> <p>24 regard. I'm a hundred percent comfortable</p> <p>25 we're compliant, but I don't know.</p>	<p style="text-align: right;">Page 195</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay. And I appreciate – I didn't</p> <p>3 mean to suggest that you weren't compliant,</p> <p>4 sir. I'm just asking you if you can identify</p> <p>5 any note that you made in favor of Highland</p> <p>6 that was ever forgiven.</p> <p>7 MS. DEITSCH-PEREZ: And I'm just</p> <p>8 going to object because, while he's not</p> <p>9 30(b)(6) witness, this is a deposition</p> <p>10 taken in a particular case and he may have</p> <p>11 not looked at the records going back to</p> <p>12 2000, or whatever, that's – since when</p> <p>13 Highland was started.</p> <p>14 MR. MORRIS: I just can't tell you</p> <p>15 how inappropriate that is.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Go ahead, Mr. Dondero.</p> <p>18 A. The same answer, I don't know.</p> <p>19 Q. Okay. You did, in fact, pay in full</p> <p>20 all principal and interest due on notes that</p> <p>21 you made in favor of Highland other than the</p> <p>22 three notes at issue in this case, correct?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. I – I don't know. I would repeat</p>

<p style="text-align: right;">Page 196</p> <p>1 Dondero - 5-28-2021</p> <p>2 the answer I gave a few minutes ago when I kind</p> <p>3 of rambled about cash management.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Do you know how many notes you made</p> <p>6 in favor of Highland beyond the three that are</p> <p>7 the subject of this litigation?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. I – I do not, regarding myself</p> <p>11 personally.</p> <p>12 I am aware that the aggregate amount</p> <p>13 of affiliated notes is approximately 70 or</p> <p>14 \$80 million, including my notes; but that's it.</p> <p>15 I mean, that's all I know.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. All right. I'm just asking you</p> <p>18 about you, in your individual capacity.</p> <p>19 A. I don't know.</p> <p>20 Q. You don't know –</p> <p>21 (Audio distortion.)</p> <p>22 THE REPORTER: You broke up, sir.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. You don't know the number of</p> <p>25 notes – (audio distortion) – Highland beyond</p>	<p style="text-align: right;">Page 197</p> <p>1 Dondero - 5-28-2021</p> <p>2 these three, correct?</p> <p>3 A. Correct.</p> <p>4 Q. And you can't recall whether any –</p> <p>5 any notes that you made in favor of Highland</p> <p>6 were ever forgiven, correct?</p> <p>7 A. I – I don't know.</p> <p>8 Q. Okay. So, did you ever object to</p> <p>9 the application of the payment referred to in</p> <p>10 Request For Admission Number 1 to principal</p> <p>11 and/or interest due under one or more of the</p> <p>12 notes?</p> <p>13 Did you ever object to the</p> <p>14 application of the payment in that way?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. I think the decision on how to</p> <p>18 handle cash needed at Highland was entirely</p> <p>19 made and the application to note principal or</p> <p>20 interest was – was entirely decided by the</p> <p>21 accounting group.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. But did you know that decision was</p> <p>24 made in or around December 2019?</p> <p>25 A. Not really, no. Not specifically.</p>
<p style="text-align: right;">Page 198</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Well, you've admitted to the fact.</p> <p>3 So, when did you learn that in December 2019 a</p> <p>4 payment made on your behalf, at least a portion</p> <p>5 of which was applied to reduce principal and/or</p> <p>6 interest due under one or more of the notes?</p> <p>7 When did you learn that?</p> <p>8 A. I don't know. It would have been as</p> <p>9 part of the process in preparing this document.</p> <p>10 Q. So it's your testimony that somebody</p> <p>11 used your money in December 2019 to reduce</p> <p>12 principal and/or interest due under one or more</p> <p>13 of the notes without your knowledge?</p> <p>14 A. Yeah, without my specific knowledge.</p> <p>15 There was a reason to put money in at that</p> <p>16 point in time, and then how they applied it was</p> <p>17 not my decision –</p> <p>18 Q. Making –</p> <p>19 A. – not –</p> <p>20 Q. Making a payment – you would agree</p> <p>21 that making a payment of principle or interest</p> <p>22 under one or more of the notes conflicts with</p> <p>23 the agreement that you reached with Nancy,</p> <p>24 right?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p style="text-align: right;">Page 199</p> <p>1 Dondero - 5-28-2021</p> <p>2 form.</p> <p>3 A. No, that's not true.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Well, the conditions subsequent</p> <p>6 hadn't arisen yet; is that fair?</p> <p>7 A. The notes were in '18, correct?</p> <p>8 Q. Yes, sir.</p> <p>9 A. And then, yeah, the subsequent</p> <p>10 condition was in the first quarter of '19.</p> <p>11 Q. Right. And then, in December of</p> <p>12 '19, a payment of principal and/or interest was</p> <p>13 made against one or more of the notes, right?</p> <p>14 A. Yes.</p> <p>15 Q. And I'm just asking you, sir, if</p> <p>16 that's inconsistent with the agreement that you</p> <p>17 reached with Nancy.</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. And I'm saying – I'm saying no. I</p> <p>21 mean, it's –</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Okay. Since learning of the</p> <p>24 payment, have you tried to identify the person</p> <p>25 who was responsible for applying your money in</p>

<p>Page 200</p> <p>1 Dondero - 5-28-2021</p> <p>2 the way that's described in Request For</p> <p>3 Admission Number 1?</p> <p>4 A. No.</p> <p>5 MR. MORRIS: Can we go down to</p> <p>6 number 4, please?</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. In your amended answer, I think you</p> <p>9 asserted that the – "each note is ambiguous."</p> <p>10 Do I have that right?</p> <p>11 We can go back, if you would like to</p> <p>12 look?</p> <p>13 A. Is this admission number 4? Is that</p> <p>14 where you're pointing to?</p> <p>15 Q. It is, and I'll just read it. It</p> <p>16 refers to paragraph 45 of the amended answer,</p> <p>17 and I'll read it. But I'm happy to go back and</p> <p>18 put it on the screen, if you'd would like.</p> <p>19 But it says simply: "Defendant</p> <p>20 further asserts that each note is ambiguous."</p> <p>21 So request for number 4 asks you to</p> <p>22 admit that before you served that amended</p> <p>23 answer, you had never informed the debtor of</p> <p>24 your belief that any provision of the notes was</p> <p>25 ambiguous.</p>	<p>Page 201</p> <p>1 Dondero - 5-28-2021</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And you've denied that request for</p> <p>5 admission.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. So, who did you inform at the debtor</p> <p>9 of your belief that a provision of the notes</p> <p>10 was ambiguous?</p> <p>11 Who did you –</p> <p>12 MS. DEITSCH-PEREZ: Object.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Who did you communicate that to?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form, no foundation.</p> <p>17 A. I – I – I don't – "I don't know"</p> <p>18 is my answer to pretty much any question you</p> <p>19 could ask there.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. This is – you're denying the</p> <p>22 request for admission, and that's your right.</p> <p>23 Did you ever inform the debtor of</p> <p>24 your belief that a provision of the notes was</p> <p>25 ambiguous?</p>
<p>Page 202</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Object, no</p> <p>3 foundation.</p> <p>4 A. As – ask the question again,</p> <p>5 please.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Did you ever inform the debtor of</p> <p>8 your belief that any provision of the notes was</p> <p>9 ambiguous?</p> <p>10 MS. DEITSCH-PEREZ: Object, no</p> <p>11 foundation.</p> <p>12 A. You know, I don't know what</p> <p>13 conversations were had between lawyers. I – I</p> <p>14 don't know.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Okay. So I'm going to ask a</p> <p>17 slightly different question because of your</p> <p>18 answer: Can you tell me whether you or anybody</p> <p>19 acting on your behalf ever informed the debtor</p> <p>20 of your belief that any provision of any of the</p> <p>21 notes was ambiguous?</p> <p>22 MS. DEITSCH-PEREZ: Object, no</p> <p>23 foundation.</p> <p>24 A. I'm going to have to say, yes, I</p> <p>25 believe that statement is true; but I don't</p>	<p>Page 203</p> <p>1 Dondero - 5-28-2021</p> <p>2 have specific knowledge.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Do you have any knowledge, can you</p> <p>5 identify any person who informed the debtor of</p> <p>6 your belief?</p> <p>7 A. I don't have specific knowledge. I</p> <p>8 don't – I don't – I don't know.</p> <p>9 Q. Can you tell me when the debtor was</p> <p>10 informed of your belief that any provision of</p> <p>11 the notes was ambiguous?</p> <p>12 MS. DEITSCH-PEREZ: Object, no</p> <p>13 foundation.</p> <p>14 A. I don't know.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Can you identify the person who was</p> <p>17 acting on behalf of the debtor who was informed</p> <p>18 by you or anyone acting on your behalf of your</p> <p>19 belief that any provision of the notes was</p> <p>20 ambiguous?</p> <p>21 MS. DEITSCH-PEREZ: Object, no</p> <p>22 foundation.</p> <p>23 A. I don't know.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 204</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Let's go to the next</p> <p>3 exhibit, please.</p> <p>4 THE WITNESS: Is this a good time</p> <p>5 for a lunch break?</p> <p>6 MR. MORRIS: Yeah. I'm happy to do</p> <p>7 it. I'm trying to move as quickly as I</p> <p>8 can, Mr. Dondero. This is a little bit</p> <p>9 longer than you and I usually sit for, and</p> <p>10 I apologize for that, but I'm happy to take</p> <p>11 as long a break as you – as you need.</p> <p>12 MS. DEITSCH-PEREZ: How long do you</p> <p>13 think you have for the rest of the</p> <p>14 deposition? What's your guess?</p> <p>15 MR. MORRIS: I would say more than</p> <p>16 an hour, less than two.</p> <p>17 MS. DEITSCH-PEREZ: Do you want to</p> <p>18 take a really short –</p> <p>19 THE WITNESS: Can we take a half</p> <p>20 hour, like 12:30 our time, 1:30 East Coast</p> <p>21 time?</p> <p>22 MR. MORRIS: Of course.</p> <p>23 THE WITNESS: Yeah. So, we'll take</p> <p>24 35 minutes, and then we'll get back to it.</p> <p>25 You know –</p>	<p style="text-align: right;">Page 205</p> <p>1 Dondero - 5-28-2021</p> <p>2 THE REPORTER: Are we still on the</p> <p>3 record, please?</p> <p>4 MR. MORRIS: Yes.</p> <p>5 COURT REPORTER: Okay.</p> <p>6 MS. DEITSCH-PEREZ: We'll –</p> <p>7 MR. MORRIS: If you have time</p> <p>8 constraints – if you have time</p> <p>9 constraints, Mr. Dondero, I'm prepared to</p> <p>10 keep going. I'll take a shorter break. I</p> <p>11 don't want – you know, I apologize for the</p> <p>12 burden, but these are relevant questions.</p> <p>13 THE WITNESS: Yeah, let's – let's</p> <p>14 do 35 minutes, and we will try and wrap it</p> <p>15 up in – like you're saying, like an hour</p> <p>16 or less than two.</p> <p>17 MR. MORRIS: Yeah.</p> <p>18 THE WITNESS: Yeah. I do need to be</p> <p>19 someplace in the early afternoon.</p> <p>20 MR. MORRIS: I assure you, I'll do</p> <p>21 my best to keep to that time frame.</p> <p>22 THE WITNESS: Okay. Thank you.</p> <p>23 THE REPORTER: And we're off the</p> <p>24 record.</p> <p>25 (Lunch recess held.)</p>
<p style="text-align: right;">Page 206</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Can we put up the next</p> <p>3 exhibit, which I believe is Number 12?</p> <p>4 (Exhibit 12 introduced.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Okay. So, Mr. Dondero, these are</p> <p>7 interrogatories, and so I direct you first to</p> <p>8 the last page of the document, the Verification</p> <p>9 page.</p> <p>10 And is that your signature, sir?</p> <p>11 A. Yes.</p> <p>12 Q. Now, this wasn't notarized. Is</p> <p>13 there a reason why you didn't get this</p> <p>14 notarized?</p> <p>15 A. No.</p> <p>16 Q. Okay.</p> <p>17 MR. MORRIS: If we could just scroll</p> <p>18 back up.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. But is the Verification true –</p> <p>21 MR. MORRIS: If we just go back to</p> <p>22 it.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. At the time you signed this</p> <p>25 document, had you read the Defendant's</p>	<p style="text-align: right;">Page 207</p> <p>1 Dondero - 5-28-2021</p> <p>2 Objections and Answers to Highland Capital</p> <p>3 Management, L.P.'s Second Set of</p> <p>4 Interrogatories?</p> <p>5 A. Yes.</p> <p>6 Q. And did you believe that the facts</p> <p>7 stated therein were both within your personal</p> <p>8 knowledge and were true and correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 MR. MORRIS: Can we go to the</p> <p>12 substance of the document on page 4 of 6?</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Okay. So, in the answer to</p> <p>15 Interrogatory No. 1, you identify the</p> <p>16 conditions subsequent that were the subject of</p> <p>17 the agreement that we've been talking about</p> <p>18 that you and Nancy entered into.</p> <p>19 Do I have that right?</p> <p>20 A. Yes.</p> <p>21 Q. And to the best of your knowledge,</p> <p>22 does the answer that's set forth in response to</p> <p>23 Interrogatory No. 1 fully and accurately set</p> <p>24 forth the conditions subsequent that were the</p> <p>25 subject of the agreement?</p>

<p>Page 208</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. Repeat the question, please.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Does this answer to Interrogatory</p> <p>7 No. 1 set forth, to the best of your knowledge</p> <p>8 and understanding, the conditions subsequent</p> <p>9 that were part of the agreement that you and</p> <p>10 Nancy entered into in January or February 2019?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. Yes, large – yes, largely –</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Okay.</p> <p>16 A. – or yes.</p> <p>17 Q. Is there any aspect of this that you</p> <p>18 believe right now is incorrect?</p> <p>19 A. No.</p> <p>20 Q. Is there any aspect of your</p> <p>21 agreement with Nancy on the conditions</p> <p>22 subsequent that's not described in this answer?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. My recollection is that that largely</p>	<p>Page 209</p> <p>1 Dondero - 5-28-2021</p> <p>2 captures it.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Okay. There's a reference there to,</p> <p>5 quote, "the disposition of the portfolio</p> <p>6 company interests managed and/or owned directly</p> <p>7 or indirectly by Highland and/or its affiliates</p> <p>8 or managed funds."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What does that refer to?</p> <p>12 A. Just, you know, MGM is owned in a</p> <p>13 variety of places, Cornerstone is owned in a</p> <p>14 variety of places, and then Trussway is owned</p> <p>15 in a subsidiary of Highland.</p> <p>16 So there – I believe it's to</p> <p>17 capture the fact of the different ownerships or</p> <p>18 controls of those three different investments.</p> <p>19 Q. Are those the only portfolio company</p> <p>20 interests managed and/or directly or indirectly</p> <p>21 by Highland or its affiliates – withdrawn.</p> <p>22 That was bad.</p> <p>23 This answer doesn't refer</p> <p>24 specifically to any particular assets, correct?</p> <p>25 A. It does not.</p>
<p>Page 210</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay.</p> <p>3 A. Well, yeah. I think what the intent</p> <p>4 was – those three companies I just mentioned</p> <p>5 were always considered portfolio companies.</p> <p>6 There have been a few others over the years,</p> <p>7 but those are – those – I think they're</p> <p>8 trying to capture them that way, but I only</p> <p>9 remember talking to her about those three.</p> <p>10 Q. Are there any other portfolio</p> <p>11 company interests that are managed and/or owned</p> <p>12 directly or indirectly by Highland and/or its</p> <p>13 affiliates or managed funds? Are there any</p> <p>14 other assets?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. There were some lesser private</p> <p>18 equity investments or companies, yes.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Can you identify them?</p> <p>21 A. CCS Medical. I think OmniMax was</p> <p>22 one. Kerri International. Yeah, those –</p> <p>23 those are ones that come to mind.</p> <p>24 Q. Okay. But notwithstanding the</p> <p>25 answer here, to the best of your recollection,</p>	<p>Page 211</p> <p>1 Dondero - 5-28-2021</p> <p>2 the agreement that you had with Nancy pertained</p> <p>3 only to MGM, Cornerstone, and Trussway. Do I</p> <p>4 have that right?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. The monetization of those three were</p> <p>8 the – were the conditions subsequent, yes.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Okay. And there's a reference there</p> <p>11 to being disposed of, quote, on a favorable</p> <p>12 basis.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. What does that mean?</p> <p>16 A. Above cost or book value.</p> <p>17 Q. How much above cost or book value</p> <p>18 would you have to dispose of MGM, Cornerstone,</p> <p>19 and Trussway in order to trigger the conditions</p> <p>20 subsequent?</p> <p>21 A. There wasn't – there was just</p> <p>22 monetization on a favorable basis. There</p> <p>23 wasn't a specific amount on each individual</p> <p>24 one. It only took one to trigger it.</p> <p>25 Q. Oh. So the sale of any of those</p>

<p>Page 212</p> <p>1 Dondero - 5-28-2021</p> <p>2 three assets would trigger the conditions</p> <p>3 subsequent?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. And who decided whether the</p> <p>6 asset was sold on a favorable basis?</p> <p>7 Who made that decision, under your</p> <p>8 agreement with Nancy?</p> <p>9 A. It was just defined relative to</p> <p>10 cost, so it was just – it was just a</p> <p>11 factual – there's nothing to decide. It would</p> <p>12 just be a factual answer.</p> <p>13 Q. So, I just want to make sure I</p> <p>14 understand.</p> <p>15 Your agreement with Nancy was that</p> <p>16 –</p> <p>17 A. Yes.</p> <p>18 Q. – that – all right. Withdrawn.</p> <p>19 Your agreement with Nancy in January</p> <p>20 or February 2019, was that if any of MGM,</p> <p>21 Cornerstone, or Trussway was sold at cost, the</p> <p>22 debtor would forgive your obligations under the</p> <p>23 three notes.</p> <p>24 Do I have that right?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p>Page 213</p> <p>1 Dondero - 5-28-2021</p> <p>2 form.</p> <p>3 A. If any of them were sold above cost,</p> <p>4 it would – monetization would trigger the –</p> <p>5 the three notes – forgiveness of the three</p> <p>6 notes, yes.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. And I just want to see if I</p> <p>9 can understand: Did you and Nancy discuss in</p> <p>10 January or February 2019 how much above cost</p> <p>11 the sale would have to be in order for the</p> <p>12 debtor to forgive your obligations under the</p> <p>13 three notes?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. No. It just had to be above cost,</p> <p>17 not a amount above cost.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay.</p> <p>20 A. Because just monetizing it – just</p> <p>21 monetizing it and getting liquidity for an</p> <p>22 illiquid investment, even if it was at cost, is</p> <p>23 good. So something above cost is great. And</p> <p>24 those are all big assets, and the notes were</p> <p>25 small.</p>
<p>Page 214</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay. So, again, I just want to</p> <p>3 really understand your agreement with Nancy.</p> <p>4 Did you and her specifically agree</p> <p>5 in January or February 2019 that if you sold</p> <p>6 either MGM or Cornerstone or Trussway for at</p> <p>7 least \$1 more than cost, then your obligations</p> <p>8 under the three notes would be forgiven?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. Before I answer that, I just – can</p> <p>12 you repeat so I can get all the subjects and</p> <p>13 participants straight in my head from the</p> <p>14 beginning of that question?</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Sure. Did you and Nancy agree in</p> <p>17 January or February 2019 that if Highland sold</p> <p>18 either MGM or Cornerstone or Trussway for an</p> <p>19 amount that was equal to at least \$1 more than</p> <p>20 cost, that – that Highland would forgive your</p> <p>21 obligations under the three notes?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I believe that is correct.</p> <p>25 BY MR. MORRIS:</p>	<p>Page 215</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Thank you very much.</p> <p>3 Was Grant Scott the trustee of the</p> <p>4 Dugaboy trust in January or February 2019?</p> <p>5 A. He was at one point. I don't know</p> <p>6 if he was – I don't know when he was the</p> <p>7 trustee, but he got replaced at a – some point</p> <p>8 in time.</p> <p>9 Q. Do you know if it was before or</p> <p>10 after the petition date?</p> <p>11 A. Before or after the petition date.</p> <p>12 It was before the petition date.</p> <p>13 MR. MORRIS: Okay. I'd ask for the</p> <p>14 production of any documents that show that</p> <p>15 Nancy Dondero was the trustee of the</p> <p>16 Dugaboy trust in January or February 2019.</p> <p>17 MS. DEITSCH-PEREZ: I'll take your</p> <p>18 request under advisement.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Now, the last portion of</p> <p>21 Interrogatory No. 1, the answer to it, refers</p> <p>22 to a, quote, "basis wholly outside Dondero's</p> <p>23 control."</p> <p>24 Do you see that?</p> <p>25 A. Uh-huh.</p>

<p>Page 216</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Was that part of the agreement that</p> <p>3 you entered into with Nancy in January or</p> <p>4 February 2019?</p> <p>5 A. Yeah. It was probably unnecessary</p> <p>6 complexity, but yes.</p> <p>7 Q. Was there anything that you</p> <p>8 envisioned in January or February 2019 that</p> <p>9 would have caused you to lose control of</p> <p>10 Highland?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. No, and I wasn't – that wasn't the</p> <p>14 thought process.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. So what was the thought process?</p> <p>17 Why was that phrase part of – why –</p> <p>18 withdrawn.</p> <p>19 Did you include that – that aspect</p> <p>20 of the conditions subsequent – withdrawn.</p> <p>21 Who decided that one of the</p> <p>22 conditions subsequent would be the disposition</p> <p>23 of the assets that you've described, quote,</p> <p>24 "wholly outside of Dondero's control."</p> <p>25 Whose idea was it to put that into</p>	<p>Page 217</p> <p>1 Dondero - 5-28-2021</p> <p>2 the agreement?</p> <p>3 A. It was – it was mine. And, again,</p> <p>4 it was probably unnecessary complexity, but...</p> <p>5 Q. And why did you want that piece of</p> <p>6 it into the agreement?</p> <p>7 A. MGM ended up being a success story,</p> <p>8 but the value of MGM and the prospects of MGM</p> <p>9 have bounced around considerably over the last</p> <p>10 decade. And we never owned more than 17 or</p> <p>11 18 percent and there was a 32 percent holder,</p> <p>12 and Carl Icahn was involved at different points</p> <p>13 in time. There was definitely a chance that,</p> <p>14 over our objections, it could have been sold at</p> <p>15 a lower price without our support.</p> <p>16 And as far as Cornerstone was</p> <p>17 concerned, there was a half or a majority that</p> <p>18 was in the Restoration Fund that had a whole</p> <p>19 bunch of outside investors in it; and,</p> <p>20 theoretically, that could have been sold</p> <p>21 without our – or against our recommendations.</p> <p>22 So it was really meant to capture</p> <p>23 those two possibilities.</p> <p>24 Q. Did you tell Frank Waterhouse at any</p> <p>25 time about your agreement with Nancy that's</p>
<p>Page 218</p> <p>1 Dondero - 5-28-2021</p> <p>2 subject to the conditions subsequent referred</p> <p>3 to here in Interrogatory No. 1?</p> <p>4 A. I don't know if Frank knew the</p> <p>5 specifics. I think Frank really was aware that</p> <p>6 the loans could and would likely be forgiven</p> <p>7 and – yes. That's all to that answer.</p> <p>8 Q. Did you tell him that?</p> <p>9 A. Yes, and – I mean, partly he knew</p> <p>10 it from the history of Highland, and the</p> <p>11 structure of the notes are structured in a way</p> <p>12 that facilitates forgiveness.</p> <p>13 MR. MORRIS: I move to strike.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Did you ever tell Frank Waterhouse</p> <p>16 about the agreement that you reached with</p> <p>17 Nancy?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. Not – not the specifics.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Did you ever mention anything about</p> <p>23 any aspect of your agreement to Nancy – with</p> <p>24 Nancy to Frank Waterhouse?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p>Page 219</p> <p>1 Dondero - 5-28-2021</p> <p>2 form.</p> <p>3 A. I – listen, I don't – I don't</p> <p>4 remember talking to him about the specifics,</p> <p>5 but, in general, I – he – he – he was deeply</p> <p>6 involved in the thought process and the</p> <p>7 conclusion that the notes were forgiven or</p> <p>8 going to be for- --</p> <p>9 MR. MORRIS: I'm going to move to</p> <p>10 strike.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. And I'm not asking you to get into</p> <p>13 his head to tell me what you think he knew.</p> <p>14 I'm asking you about what you told him.</p> <p>15 Did you ever tell Mr. Waterhouse</p> <p>16 that you reached an agreement with Nancy</p> <p>17 pursuant to which the debtor had agreed not to</p> <p>18 collect on the notes subject to the conditions</p> <p>19 subsequent set forth in your answer to</p> <p>20 Interrogatory No. 1?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. I don't remember. I – I don't</p> <p>24 remember enough to say conclusively one way or</p> <p>25 the other.</p>

<p>Page 220</p> <p>1 Dondero - 5-28-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Do you have any recollection of</p> <p>4 telling any employee at Highland at any time of</p> <p>5 your agreement with Nancy?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. I – I don't know.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Okay. Did you tell anybody employed</p> <p>11 or representing the debtor at any time of your</p> <p>12 agreement with Nancy?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Not that I – not that I recall.</p> <p>16 Again, I didn't think there was a reason to,</p> <p>17 initially.</p> <p>18 MR. MORRIS: Can we go to</p> <p>19 Exhibit 13, please?</p> <p>20 (Exhibit 13 introduced.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. All right. When you were the CEO,</p> <p>23 did PricewaterhouseCoopers serve as Highland's</p> <p>24 auditors?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p>Page 221</p> <p>1 Dondero - 5-28-2021</p> <p>2 form.</p> <p>3 A. At different times they were, and</p> <p>4 then KPMG was. I don't remember who it was in</p> <p>5 '17.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Okay. And it's a fact, is it not,</p> <p>8 that until at least year-end 2018, Highland had</p> <p>9 audited the financial statements prepared for</p> <p>10 itself, right?</p> <p>11 A. I don't know. I wasn't aware they</p> <p>12 stopped.</p> <p>13 Q. Okay. Okay.</p> <p>14 So, I'm putting up on the screen the</p> <p>15 "Consolidated Financial Statements and</p> <p>16 Supplemental Information" for the period</p> <p>17 December 31st, 2017.</p> <p>18 Do you see that?</p> <p>19 A. Uh-huh.</p> <p>20 MR. MORRIS: And if we can go first</p> <p>21 to the page marked 33470, which is, I</p> <p>22 think, the –</p> <p>23 And is this – does this refresh</p> <p>24 your recollection that PWC served as</p> <p>25 Highland's independent auditors for the</p>
<p>Page 222</p> <p>1 Dondero - 5-28-2021</p> <p>2 financial statements prepared for the year</p> <p>3 ending December 31st, 2017?</p> <p>4 MR. MORRIS: If you could scroll</p> <p>5 down to the bottom of the page so</p> <p>6 Mr. Dondero can see the date.</p> <p>7 A. Okay.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Do you see that?</p> <p>10 A. If you're asking me to agree that it</p> <p>11 was Pricewaterhouse, yes, I agree.</p> <p>12 Q. And do you see that they signed</p> <p>13 their letter on May 18th, 2018? Do you see</p> <p>14 that?</p> <p>15 A. Yeah.</p> <p>16 Q. And do you see, towards the top of</p> <p>17 the page, there's a statement about</p> <p>18 "Management's Responsibility for the</p> <p>19 Consolidated Financial Statements"?</p> <p>20 A. Yes.</p> <p>21 Q. And that's a pretty standard clause</p> <p>22 that auditors include in audited financial</p> <p>23 statements, in your experience; isn't that</p> <p>24 right?</p> <p>25 A. Yes.</p>	<p>Page 223</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Can we go to the</p> <p>3 page – the next page, 3471?</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. This is the Consolidated Balance</p> <p>6 Sheet for the period December 31, 2017, and</p> <p>7 it's been redacted except to show "Notes and</p> <p>8 other amounts due from affiliates." Do you see</p> <p>9 that?</p> <p>10 A. Uh-huh.</p> <p>11 Q. When you were the CEO, did Highland</p> <p>12 carry the Notes and Other Amounts Due from</p> <p>13 Affiliates as assets on its balance sheet?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And that's what's reflected</p> <p>16 on this page; is that correct?</p> <p>17 A. I mean, that's what the heading</p> <p>18 says, yes.</p> <p>19 Q. Okay.</p> <p>20 MR. MORRIS: Can we go to Bates</p> <p>21 number 33499.</p> <p>22 (Scrolling.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. And you're aware, are you not, that</p> <p>25 in the Notes to the financial statements, PWC</p>

<p>Page 224</p> <p>1 Dondero - 5-28-2021</p> <p>2 described all of the notes and other amounts</p> <p>3 that were due to affiliates – due from</p> <p>4 affiliates?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. Yes.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. And were you aware that in the</p> <p>10 financial statements prepared for Highland for</p> <p>11 the period ending December 31st, 2017, that PWC</p> <p>12 included in its notes amounts due from Highland</p> <p>13 Capital Management Fund Advisors, L.P.?</p> <p>14 A. The 0.2 million in the first</p> <p>15 sentence, is that your question?</p> <p>16 Q. Yes. You know, the whole – who at</p> <p>17 Highland was responsible for providing</p> <p>18 information to PWC relating to Notes and Other</p> <p>19 Amounts Due from Affiliates?</p> <p>20 A. The accounting department.</p> <p>21 Q. And who was the head of the</p> <p>22 accounting department as of the end of 2017?</p> <p>23 A. Frank Waterhouse.</p> <p>24 Q. And did Frank Waterhouse remain the</p> <p>25 head of the accounting department until at</p>	<p>Page 225</p> <p>1 Dondero - 5-28-2021</p> <p>2 least the end of 2020, to the best of your</p> <p>3 knowledge?</p> <p>4 A. Yes.</p> <p>5 Q. And when did Frank Waterhouse become</p> <p>6 the head of the accounting department?</p> <p>7 A. A few years earlier.</p> <p>8 Q. So, to the best of your</p> <p>9 recollection, Frank Waterhouse has been the</p> <p>10 head of the accounting department on a</p> <p>11 continuous basis from the period approximately</p> <p>12 2015 until the end of 2020; is that right?</p> <p>13 A. If not earlier, but yes. But I</p> <p>14 don't know the dates.</p> <p>15 Q. Okay.</p> <p>16 MR. MORRIS: Can we scroll down to</p> <p>17 the next to the last paragraph there, the</p> <p>18 one that refers to Mr. Dondero? There you</p> <p>19 go.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Do you see that, according to this</p> <p>22 financial report, you "did not issue any new</p> <p>23 promissory notes to the Partnership" during the</p> <p>24 year 2017?</p> <p>25 A. Yeah.</p>
<p>Page 226</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. And to the best of your</p> <p>3 recollection, was that accurate?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And to the best of your</p> <p>6 recollection, was it also accurate that as of</p> <p>7 the end of 2017, the total interest and</p> <p>8 principal due on an – on outstanding</p> <p>9 promissory notes was approximately 14 and a</p> <p>10 half million dollars and was payable in annual</p> <p>11 installments throughout the term of the note?</p> <p>12 A. Yes.</p> <p>13 Q. And prior to your execution of the</p> <p>14 demand notes, do you recall that you had made,</p> <p>15 in favor of Highland, certain term notes?</p> <p>16 A. I don't – I don't recall.</p> <p>17 Q. Do you remember having to make</p> <p>18 payments to Highland to satisfy the terms of</p> <p>19 any notes prior to 2018?</p> <p>20 A. I can't recall. I didn't refresh –</p> <p>21 I didn't refresh myself on anything else, on</p> <p>22 any other notes for this deposition.</p> <p>23 Q. Okay. But looking at this</p> <p>24 paragraph, is there anything about it that you</p> <p>25 currently believe is inaccurate or incorrect?</p>	<p>Page 227</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. I – I don't know. I don't know.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Okay. We can scroll through the</p> <p>7 entire page, if you would like, but I just –</p> <p>8 I'll ask the question first, and then you tell</p> <p>9 me what you need to read.</p> <p>10 Do you recall whether</p> <p>11 PricewaterhouseCoopers' audited financial</p> <p>12 statements ever disclosed the forgiveness of</p> <p>13 any loan ever made by Highland to you or any of</p> <p>14 its employees?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. I don't – I don't know.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Do you have a recollection of any?</p> <p>20 A. I don't have a recollection –</p> <p>21 recollection of any. As a CPA, I'm not sure</p> <p>22 it's required until it's forgiven, but I'm not</p> <p>23 the expert. I can't remember seeing it or not</p> <p>24 seeing it.</p> <p>25 Q. Did the debtor make –</p>

<p style="text-align: right;">Page 228</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: You know what? Let's</p> <p>3 look – let's look at each of these. We</p> <p>4 can start with the bottom of the page.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Can you identify any of the makers</p> <p>7 of the notes that are referred to in this</p> <p>8 section that are not directly or indirectly</p> <p>9 owned or controlled by you, other than</p> <p>10 Mr. Okada?</p> <p>11 So, if we start at the top, is</p> <p>12 Highland Capital Management Fund Advisors,</p> <p>13 L.P., an entity that is either directly or</p> <p>14 indirectly owned or controlled by you?</p> <p>15 A. Yes.</p> <p>16 Q. NexPoint Advisors, L.P., the next</p> <p>17 paragraph, is that an entity that is directly</p> <p>18 or indirectly owned or controlled by you?</p> <p>19 A. Yes.</p> <p>20 Q. HCRE Partners, LLC, is that an</p> <p>21 entity that is directly or indirectly owned or</p> <p>22 controlled by you?</p> <p>23 A. Yes.</p> <p>24 Q. Highland Capital Management</p> <p>25 Services, Inc., is that an entity that is</p>	<p style="text-align: right;">Page 229</p> <p>1 Dondero - 5-28-2021</p> <p>2 directly or indirectly owned or controlled by</p> <p>3 you?</p> <p>4 A. Yes.</p> <p>5 Q. All right. And you're the subject</p> <p>6 of the next paragraph, right?</p> <p>7 The next paragraph relates to Mark</p> <p>8 Okada. Are you aware of any loan that was ever</p> <p>9 made by Highland to Mr. Okada that was</p> <p>10 forgiven?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay.</p> <p>13 MR. MORRIS: Can we go to the next</p> <p>14 paragraph, please?</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. There's a reference to The Dugaboy</p> <p>17 Investment Trust. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Either your sister or Mr. Scott have</p> <p>20 served as the sole trustee of Dugaboy since the</p> <p>21 time it was created; is that correct?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I – I don't know.</p> <p>25 BY MR. MORRIS:</p>
<p style="text-align: right;">Page 230</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Do you recall anybody at any time</p> <p>3 serving as the trustee of The Dugaboy</p> <p>4 Investment Trust other than Nancy or Mr. Scott?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. I – I don't remember.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Are you the lifetime beneficiary of</p> <p>10 The Dugaboy Investment Trust?</p> <p>11 A. Yes.</p> <p>12 Q. And have you been – withdrawn.</p> <p>13 Are you the sole lifetime</p> <p>14 beneficiary of The Dugaboy Investment Trust?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. I believe so.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay. And has that been true since</p> <p>20 the time The Dugaboy Investment Trust was</p> <p>21 created?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I don't know for sure.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 231</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Okay. The next paragraph refers to</p> <p>3 a Contribution Agreement. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. Are you familiar who the affiliated</p> <p>6 trust is that entered into the Contribution</p> <p>7 Agreement?</p> <p>8 A. No. I'm willing to be refreshed,</p> <p>9 but I don't remember.</p> <p>10 Q. Is it the Hunter Mountain Investment</p> <p>11 Trust?</p> <p>12 A. It could be.</p> <p>13 Q. Can you think of any other</p> <p>14 affiliated trust other than Hunter Mountain who</p> <p>15 carried a note receivable in the amount of</p> <p>16 \$63 million due to the partnership?</p> <p>17 A. No.</p> <p>18 Q. Do you directly or indirectly own or</p> <p>19 control the Hunter Mountain Trust?</p> <p>20 A. No.</p> <p>21 Q. Let's go – do you have any interest</p> <p>22 in the Hunter Mountain Trust?</p> <p>23 A. No.</p> <p>24 Q. Directly or indirectly?</p> <p>25 A. No.</p>

<p>Page 232</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Can we go to 33510,</p> <p>3 please?</p> <p>4 (Scrolling.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Just to refresh your recollection,</p> <p>7 PricewaterhouseCoopers's letter is dated</p> <p>8 May 18th, 2018.</p> <p>9 And you see there, note 16 refers to</p> <p>10 "Subsequent Events." Do you see that?</p> <p>11 A. Yep.</p> <p>12 Q. So, sometime between January 1st and</p> <p>13 May 18, 2018, which is the report date,</p> <p>14 PricewaterhouseCoopers is disclosing that you</p> <p>15 issued promissory notes in the amount of</p> <p>16 \$11.7 million. Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you believe that was true and</p> <p>19 accurate at the time? Is that your</p> <p>20 recollection?</p> <p>21 A. Yes.</p> <p>22 Q. Now, of the three notes that we</p> <p>23 looked at, only one of them was issued before</p> <p>24 May 18, 2018. That was the 2 and a half</p> <p>25 million-dollar note.</p>	<p>Page 233</p> <p>1 Dondero - 5-28-2021</p> <p>2 Do you remember that?</p> <p>3 I apologize. Withdrawn.</p> <p>4 That was the 3.825 million-dollar</p> <p>5 note.</p> <p>6 Do you remember that?</p> <p>7 A. Okay. Yes.</p> <p>8 Q. Okay. So, if that note was 3. --</p> <p>9 let's just call it roughly \$3.9 million, does</p> <p>10 that mean that there were \$7.8 million of other</p> <p>11 notes that you made in favor of Highland during</p> <p>12 the first five months of 2018?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Yeah, I think you got the wrong --</p> <p>16 well, you're -- I'm not the accounting</p> <p>17 department. I'm not the auditor. My comment</p> <p>18 would be our financial statements have always</p> <p>19 been -- our audited financial statements have</p> <p>20 always been extremely accurate and</p> <p>21 Pricewaterhouse and KPMG literally do a hundred</p> <p>22 percent sampling of all transactions.</p> <p>23 Everything is reflected accurately in the</p> <p>24 financials, and there's no missing note or</p> <p>25 misstated note or unequal amount, or whatever.</p>
<p>Page 234</p> <p>1 Dondero - 5-28-2021</p> <p>2 And I refuse to go in that direction just</p> <p>3 because I don't know the details.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. I appreciate that, sir, and I didn't</p> <p>6 mean to take you into that direction. I'm just</p> <p>7 asking you if you know what accounts for the</p> <p>8 difference between the \$11.7 million stated and</p> <p>9 the 3.825 million-dollar note that we looked at</p> <p>10 as Exhibit Number 1 that was tendered by you on</p> <p>11 February 2nd, 2018. That's all.</p> <p>12 A. I -- I don't know. I have no -- I</p> <p>13 have no idea.</p> <p>14 Q. Okay. In the course of the audit,</p> <p>15 you personally sign management representation</p> <p>16 letters, right?</p> <p>17 A. Usually at the end.</p> <p>18 Q. Yeah.</p> <p>19 MR. MORRIS: So can we call the next</p> <p>20 exhibit up, please?</p> <p>21 (Exhibit 14 introduced.)</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. And happy to take a look at it. I'm</p> <p>24 going to point you to a couple of things.</p> <p>25 MR. MORRIS: But if we could go to</p>	<p>Page 235</p> <p>1 Dondero - 5-28-2021</p> <p>2 the document, it's page 9 of the document,</p> <p>3 Bates number 33408. All right.</p> <p>4 And scroll up to the prior page,</p> <p>5 please. Just looking for the signatures.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. All right. Is that your signature</p> <p>8 there, sir?</p> <p>9 A. Yeah.</p> <p>10 Q. And did you sign this management</p> <p>11 representation letter on behalf of Highland in</p> <p>12 your capacity as the Strand Advisors, Inc.,</p> <p>13 general partner on or about May 18th, 2018?</p> <p>14 A. Yeah.</p> <p>15 Q. And Frank Waterhouse, is that -- do</p> <p>16 you know that to be his signature below?</p> <p>17 A. It resembles it, yes.</p> <p>18 Q. Okay. Do you have an understanding</p> <p>19 of why you signed this document?</p> <p>20 A. Despite all their auditing and</p> <p>21 double-checking of all source information,</p> <p>22 they -- they want a validation from management,</p> <p>23 also.</p> <p>24 Q. And is that standard and customary,</p> <p>25 to the best of your experience?</p>

<p>Page 236</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 MR. MORRIS: Can we go back to the</p> <p>5 first page, please?</p> <p>6 (Scrolling.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Do you see in the second paragraph,</p> <p>9 the last sentence, there's a reference to</p> <p>10 "materiality"?</p> <p>11 MR. MORRIS: If you can just scroll</p> <p>12 down a bit.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. And it says, quote, "Materiality</p> <p>15 used for purposes of these representations is</p> <p>16 \$2,000,000."</p> <p>17 Am I reading that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. And did you understand that Highland</p> <p>20 was to provide to PWC, so that it could prepare</p> <p>21 the audited financial statements with</p> <p>22 information relating to issues and transactions</p> <p>23 that were material, using that definition?</p> <p>24 A. Yes.</p> <p>25 MR. MORRIS: Let's go to the next</p>	<p>Page 237</p> <p>1 Dondero - 5-28-2021</p> <p>2 document.</p> <p>3 (Exhibit 15 introduced.)</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. These are the audited financials for</p> <p>6 the period ending December 31st, 2018.</p> <p>7 MR. MORRIS: And if you could go to</p> <p>8 the third page, the one ending in 33424.</p> <p>9 No, above. Yeah, right there.</p> <p>10 Do you see PricewaterhouseCoopers</p> <p>11 signed the audit letter on June 3rd, 2019?</p> <p>12 A. Yep.</p> <p>13 MR. MORRIS: And if we can scroll up</p> <p>14 to the top of the page, it has the same</p> <p>15 statement concerning "Management's</p> <p>16 Responsibility for the Consolidated</p> <p>17 Financial Statements" that we looked at</p> <p>18 earlier in the 2017 audit, correct?</p> <p>19 A. Yes.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Okay. And that's -- looking at it,</p> <p>22 that's customary language that auditors include</p> <p>23 in audited financial statements, correct?</p> <p>24 A. Yep.</p> <p>25 MR. MORRIS: Can we go to the next</p>
<p>Page 238</p> <p>1 Dondero - 5-28-2021</p> <p>2 page, please?</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Again, you'll see that this is the</p> <p>5 Consolidated Balance Sheet for the period</p> <p>6 ending December 31st, 2018. Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And is it accurate that Highland</p> <p>9 continued to carry on its balance sheet as an</p> <p>10 asset all "Notes and Other Amounts Due from</p> <p>11 Affiliates"?</p> <p>12 A. Yes.</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. And you knew -- you knew at the time</p> <p>17 that the audited financials were finalized that</p> <p>18 Highland was carrying on its balance sheet</p> <p>19 "Notes and Other Amounts Due from Affiliates,"</p> <p>20 correct?</p> <p>21 A. Yup.</p> <p>22 Q. Did you personally tell anybody at</p> <p>23 PWC in connection with the preparation of the</p> <p>24 audited financial statements for 2018 that you</p> <p>25 had entered into the agreement with your sister</p>	<p>Page 239</p> <p>1 Dondero - 5-28-2021</p> <p>2 Nancy in January or February of 2019?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 A. Not that I recall.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Do you know if anybody told PWC,</p> <p>8 prior to the completion of the audited</p> <p>9 financial statements for the period ending</p> <p>10 December 31st, 2018, of your agreement with</p> <p>11 Nancy?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. Not that I know of.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Did you ever instruct anybody to</p> <p>17 inform PWC about the agreement you reached with</p> <p>18 Nancy in --</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. -- January --</p> <p>23 MR. MORRIS: Please let me finish</p> <p>24 the question.</p> <p>25 MS. DEITSCH-PEREZ: You took a</p>

<p style="text-align: right;">Page 240</p> <p>1 Dondero - 5-28-2021</p> <p>2 breath. Sorry.</p> <p>3 MR. MORRIS: Are you finished?</p> <p>4 MS. DEITSCH-PEREZ: Yes. As I</p> <p>5 explained, you took a breath, and I thought</p> <p>6 you were done. Sorry.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Did you ever instruct anybody to</p> <p>9 inform PWC of your agreement that you reached</p> <p>10 with Nancy in January or February 2019?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. No.</p> <p>14 MR. MORRIS: Can you please go to</p> <p>15 page 33451?</p> <p>16 (Scrolling.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. And we've got the "Notes and Other</p> <p>19 Amounts Due from Affiliates." We had gone</p> <p>20 through all of this before and I'm not going to</p> <p>21 do it again, but I do want to ask you, sir:</p> <p>22 Did you personally approve and authorize each</p> <p>23 of the notes that are reflected in the PWC</p> <p>24 disclosure concerning Notes and Other Amounts</p> <p>25 Due from Affiliates?</p>	<p style="text-align: right;">Page 241</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. Repeat the question.</p> <p>5 Did I personally approve? Was that</p> <p>6 the question or --</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Yes. Withdrawn.</p> <p>9 I'll ask a different question.</p> <p>10 And I'm happy to give you the time</p> <p>11 needed to look at the full disclosure, but are</p> <p>12 you aware of any note or other amount due from</p> <p>13 affiliate that you didn't approve and</p> <p>14 authorize?</p> <p>15 A. I'm not aware.</p> <p>16 MR. MORRIS: Okay. If we could just</p> <p>17 focus in on that bottom paragraph relating</p> <p>18 to Mr. Dondero.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. So there's a reference there to your</p> <p>21 having "issued promissory notes to the</p> <p>22 Partnership in the aggregate amount of</p> <p>23 \$14.9 million" during 2018.</p> <p>24 Do you see that?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 242</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. That would include the three notes</p> <p>3 at issue in this lawsuit; is that right?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. (No response.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Let me ask a different question.</p> <p>9 The three -- the three notes at</p> <p>10 issue in this lawsuit were all issued in 2018,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do you have a recollection as</p> <p>14 to what notes account for the difference</p> <p>15 between the \$8.8 million or so that's at issue</p> <p>16 in this lawsuit and the \$14.9 million</p> <p>17 referenced in this disclosure?</p> <p>18 A. I don't, other than that -- I</p> <p>19 believe the audit is accurate and, you know,</p> <p>20 there could have been principle or interest</p> <p>21 paydowns. I don't know the reason for the</p> <p>22 difference.</p> <p>23 Q. This disclosure, as it pertains to</p> <p>24 you, doesn't mention any oral agreement, does</p> <p>25 it?</p>	<p style="text-align: right;">Page 243</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. No.</p> <p>3 Q. And it doesn't mention any amendment</p> <p>4 to any of the notes, correct?</p> <p>5 A. No.</p> <p>6 Q. It doesn't describe any conditions</p> <p>7 that have been placed on the collectability of</p> <p>8 the notes from you, correct?</p> <p>9 A. No.</p> <p>10 Q. It doesn't state that the notes</p> <p>11 might be forgiven upon some conditions</p> <p>12 subsequent, correct?</p> <p>13 A. No, it does not.</p> <p>14 MR. MORRIS: Can we turn to</p> <p>15 page 33461, please?</p> <p>16 (Scrolling.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. And these are "Subsequent Events,"</p> <p>19 and I just want to look through them --</p> <p>20 withdrawn.</p> <p>21 You understand that these financial</p> <p>22 statements are for the period ending</p> <p>23 December 31st, 2018, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And the agreement that you reached</p>

<p>Page 244</p> <p>1 Dondero - 5-28-2021</p> <p>2 with Nancy, to the best of your recollection,</p> <p>3 occurred in January or February 2019, correct?</p> <p>4 (Simultaneous conversation.)</p> <p>5 A. Yes –</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 THE REPORTER: I didn't hear an</p> <p>9 answer.</p> <p>10 A. Repeat the question again, just in</p> <p>11 case.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Sure. The agreement that you – the</p> <p>14 agreement that you reached with Nancy on behalf</p> <p>15 of Highland was an agreement that was reached</p> <p>16 in January or February 2019, correct?</p> <p>17 A. Was in – the last was in January or</p> <p>18 February of '19, yes. Yes.</p> <p>19 Q. Okay. So I just want to show you</p> <p>20 the entirety of the "Subsequent Events" because</p> <p>21 they cover the period from December 31st, 2018,</p> <p>22 until the report date of June 3, 2019.</p> <p>23 MR. MORRIS: If we could just look</p> <p>24 at that.</p> <p>25 BY MR. MORRIS:</p>	<p>Page 245</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Is there any reference made to the</p> <p>3 agreement that you reached with Nancy in</p> <p>4 January or February 2019?</p> <p>5 A. No.</p> <p>6 MS. DEITSCH-PEREZ: And I just want</p> <p>7 to object for the record that we asked the</p> <p>8 debtor for all of the Highland financial –</p> <p>9 audited financial statements. We got</p> <p>10 highly redacted ones where the debtor has</p> <p>11 clearly left unredacted only those things</p> <p>12 it wanted to use while denying Mr. Dondero</p> <p>13 the unredacted copies. So we do not have</p> <p>14 here, for him to look at, the unredacted</p> <p>15 Highland audited financial statements.</p> <p>16 MR. MORRIS: But this is the only</p> <p>17 portion of the document – well, I'm not</p> <p>18 going to argue.</p> <p>19 MS. DEITSCH-PEREZ: Yes. You showed</p> <p>20 us what you wanted to show him in an</p> <p>21 unredacted (audio distortion) gave him</p> <p>22 fully redacted copies. I understand that.</p> <p>23 MR. MORRIS: Yeah, and I'll be happy</p> <p>24 to submit a unredacted copy to the Judge</p> <p>25 under seal so that she can see whether or</p>
<p>Page 246</p> <p>1 Dondero - 5-28-2021</p> <p>2 not there's any other aspect of the</p> <p>3 financial statements that –</p> <p>4 MS. DEITSCH-PEREZ: That's fine.</p> <p>5 MR. MORRIS: – pertain to the</p> <p>6 notes.</p> <p>7 Give me a break. Stop.</p> <p>8 MS. DEITSCH-PEREZ: I know.</p> <p>9 Litigation isn't a one-way – one-way</p> <p>10 disco.</p> <p>11 MR. MORRIS: Okay. All right.</p> <p>12 The next document, please.</p> <p>13 THE WITNESS: How are we doing on</p> <p>14 time?</p> <p>15 MR. MORRIS: We're doing pretty</p> <p>16 well. I think we're going to fit within –</p> <p>17 we're not quite an hour back on, but I'm</p> <p>18 confident that we'll fit within the one- to</p> <p>19 two-hour – we'll be done within an hour.</p> <p>20 That's my point.</p> <p>21 THE WITNESS: Okay. I'm going to</p> <p>22 give a hard stop at 2:00. Okay?</p> <p>23 MR. MORRIS: You can do whatever you</p> <p>24 want. If we're not finished, we'll just</p> <p>25 have to figure out a time to come back. So</p>	<p>Page 247</p> <p>1 Dondero - 5-28-2021</p> <p>2 let's get through as much as we can, and</p> <p>3 we'll see where we are.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. The next document is the management</p> <p>6 representation letter.</p> <p>7 (Exhibit 16 introduced.)</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. And I would just ask you to look at,</p> <p>10 I guess, page 33419 and just confirm for me</p> <p>11 that that's your signature.</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And this contains the same</p> <p>14 representations that you made to PWC that we</p> <p>15 looked at in the earlier management rep letter,</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Let's look at the next</p> <p>19 document, please.</p> <p>20 (Exhibit 17 introduced.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. So PWC issues the audited financials</p> <p>23 in June of 2019, and then Highland files for</p> <p>24 bankruptcy in October.</p> <p>25 Do I have that right?</p>

<p style="text-align: right;">Page 248</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. And at the time Highland filed for</p> <p>4 bankruptcy, you were the president and CEO of</p> <p>5 Highland, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And you personally authorized</p> <p>8 Highland's bankruptcy filing, correct?</p> <p>9 A. On Pachulski's recommendation.</p> <p>10 Q. But you're the only person who</p> <p>11 authorized the filing; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. And did you understand -- you have</p> <p>14 familiarity with bankruptcy proceedings, right?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. Not this kind of bankruptcy, but,</p> <p>18 yes, we have experience in bankruptcies.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. And you had experience in the Acis</p> <p>21 bankruptcy, for example, correct?</p> <p>22 A. Yes.</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 249</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. And you understand that debtors in</p> <p>3 bankruptcy have to make certain disclosures; is</p> <p>4 that right?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. You can answer.</p> <p>9 A. Yes.</p> <p>10 Q. And you understand that the purpose</p> <p>11 of the disclosures is to give interested</p> <p>12 parties an opportunity to review the financial</p> <p>13 information relating to the debtors, right?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. Generally.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. The debtor is supposed to be</p> <p>19 transparent. Is that a statement you would</p> <p>20 agree with?</p> <p>21 A. I'd agree the debtor is supposed to</p> <p>22 be.</p> <p>23 Q. So, are you aware that the debtor</p> <p>24 filed certain schedules in connection with the</p> <p>25 bankruptcy case?</p>
<p style="text-align: right;">Page 250</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. I'm sure they filed many schedules.</p> <p>3 Q. And did you -- did you review the</p> <p>4 debtor's schedules before they were filed?</p> <p>5 A. No.</p> <p>6 Q. All right. So, here is a summary of</p> <p>7 the debtor's assets and liabilities that was</p> <p>8 filed in December -- on December 12th, 2019.</p> <p>9 Do you see the timeline at the top?</p> <p>10 A. Yes.</p> <p>11 Q. And you were still in control of the</p> <p>12 debtor at that time, correct?</p> <p>13 A. Yep.</p> <p>14 Q. And was Mr. Waterhouse responsible</p> <p>15 for preparing the debtor's Summary of Assets</p> <p>16 and Liabilities on behalf of Highland at that</p> <p>17 time?</p> <p>18 A. I -- I don't know whether DSI was in</p> <p>19 control at that point. I don't know.</p> <p>20 Q. Did DSI rely on Mr. Waterhouse and</p> <p>21 the accounting team for the information that</p> <p>22 was used to create the debtor's disclosures?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 251</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Withdrawn.</p> <p>3 To the best of your knowledge, did</p> <p>4 DSI rely on Mr. Waterhouse and the accounting</p> <p>5 team at Highland in order to prepare the</p> <p>6 debtor's schedules and financial disclosures?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. I don't know.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Did you ever discuss with</p> <p>12 Mr. Waterhouse the debtor's financial</p> <p>13 disclosures during the bankruptcy case?</p> <p>14 A. Nope.</p> <p>15 Q. Did you ever look at the Summary of</p> <p>16 Assets and Liabilities that was filed with the</p> <p>17 Court in December 2019?</p> <p>18 A. Nope.</p> <p>19 MR. MORRIS: Turn to the second</p> <p>20 page, please. Let's just go down right --</p> <p>21 right there.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Do you see in part 11 -- part 11</p> <p>24 pertains to all other assets and in Item</p> <p>25 Number 71, there's a reference to "Notes</p>

<p>Page 252</p> <p>1 Dondero - 5-28-2021</p> <p>2 Receivable."</p> <p>3 A. Yep.</p> <p>4 Q. And do you see that the Notes</p> <p>5 Receivable are for an aggregate amount of</p> <p>6 approximately \$150 million?</p> <p>7 A. Yep.</p> <p>8 Q. And it refers to Exhibit D. Do you</p> <p>9 see that?</p> <p>10 A. Yes.</p> <p>11 Q. All right.</p> <p>12 MR. MORRIS: Can we turn – go to</p> <p>13 the next page?</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. And exhibit – this page is Exhibit</p> <p>16 D.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And this shows an aggregate amount</p> <p>20 of – the face amount of notes to be the same</p> <p>21 \$150.3 million that we just saw, correct?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. We can go back and look, if you</p>	<p>Page 253</p> <p>1 Dondero - 5-28-2021</p> <p>2 want.</p> <p>3 A. It seems to tie.</p> <p>4 Q. Okay. And it was disclosed on the</p> <p>5 docket in the bankruptcy case that you</p> <p>6 personally had made Notes Receivable</p> <p>7 outstanding in the approximate amount of</p> <p>8 \$9.3 million. Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 MR. MORRIS: Can we just go to the</p> <p>12 top? I want to just show the date.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. It's December 13. That's the date</p> <p>15 that this disclosure is made. Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And there's a footnote there, number</p> <p>18 [1], that says "Doubtful or Uncollectible</p> <p>19 accounts are evaluated at year end." Do you</p> <p>20 see that?</p> <p>21 A. Yes.</p> <p>22 Q. Now, nothing on this document shows</p> <p>23 any of the notes as being doubtful or</p> <p>24 uncollectible, correct?</p> <p>25 A. Correct.</p>
<p>Page 254</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Do you know if the debtor's</p> <p>3 schedules were ever amended after</p> <p>4 December 13th, 2019, to reflect "Doubtful or</p> <p>5 Uncollectible" Notes Receivable?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. Yeah. I believe the Hunter Mountain</p> <p>9 56 was written off.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Okay. Anything else?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. I – I don't know.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Okay. Did you ever ask anyone to</p> <p>17 amend the debtor's schedules to reflect any</p> <p>18 Doubtful or Uncollectible receivable that's set</p> <p>19 forth on this page?</p> <p>20 A. I did not.</p> <p>21 Q. Okay.</p> <p>22 MR. MORRIS: La Asia, I'm actually</p> <p>23 going to just skip the next exhibit. And</p> <p>24 if we could go to the one that you and I</p> <p>25 had marked as 19. We'll just mark it as 18</p>	<p>Page 255</p> <p>1 Dondero - 5-28-2021</p> <p>2 for purposes of the deposition.</p> <p>3 MS. DEITSCH-PEREZ: I think that's</p> <p>4 confusing. I don't mind if you just mark</p> <p>5 18 as "omitted." I would want a sheet with</p> <p>6 "18 omitted." That way, your numbering can</p> <p>7 stay the same.</p> <p>8 MR. MORRIS: Okay. That's fine.</p> <p>9 Thank you. So we'll mark 18 as "omitted",</p> <p>10 and this will be 19.</p> <p>11 (Exhibit 19 introduced.)</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Are you aware of – that the debtor</p> <p>14 filed disclosures called Statements of</p> <p>15 Financial Affairs, often referred to as SoFAs?</p> <p>16 A. I've heard of the form before, yes.</p> <p>17 Q. Did you ever review the debtor's</p> <p>18 SoFAs?</p> <p>19 A. No.</p> <p>20 Q. So, do you know who was responsible</p> <p>21 at Highland for preparing the debtor's SoFAs?</p> <p>22 A. No.</p> <p>23 Q. Would it have been – would –</p> <p>24 whoever it was, would that person have either</p> <p>25 been or reported to Frank Waterhouse, as the</p>

<p style="text-align: right;">Page 256</p> <p>1 Dondero - 5-28-2021</p> <p>2 CFO?</p> <p>3 A. I'm sorry. Can you repeat that one</p> <p>4 more time?</p> <p>5 Q. I appreciate the fact that you</p> <p>6 don't – you can't identify the person who</p> <p>7 prepared the SoFAs; but within the</p> <p>8 organizational structure of Highland during the</p> <p>9 time that you were the CEO, would the person</p> <p>10 have been either Frank Waterhouse or somebody</p> <p>11 who reported to Frank Waterhouse?</p> <p>12 A. Or DSI.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: Can we go to page 2,</p> <p>15 please.</p> <p>16 (Scrolling.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see at number 4 here, there's</p> <p>19 a reference to payments made to insiders within</p> <p>20 a year of the bankruptcy case?</p> <p>21 A. Yup.</p> <p>22 Q. Are you aware – withdrawn.</p> <p>23 Were you aware in December 2019 that</p> <p>24 Highland was going to disclose all payments</p> <p>25 made to insiders within a year of the</p>	<p style="text-align: right;">Page 257</p> <p>1 Dondero - 5-28-2021</p> <p>2 bankruptcy case?</p> <p>3 A. No.</p> <p>4 MR. MORRIS: Let's go to page 19 of</p> <p>5 34, please.</p> <p>6 (Scrolling.)</p> <p>7 MR. MORRIS: If we could, scroll</p> <p>8 down near the bottom.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. You'll see that there's two entries</p> <p>11 for Highland Capital Management Fund Advisors.</p> <p>12 Do you see that?</p> <p>13 A. Yup.</p> <p>14 Q. And in May 2019, the debtor paid</p> <p>15 Highland Capital Management Fund Advisors the</p> <p>16 aggregate amount of \$7.4 million. Am I reading</p> <p>17 that correctly?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And those payments were – in</p> <p>20 exchange for those payments, Highland received</p> <p>21 two promissory notes, correct?</p> <p>22 MS. DEITSCH-PEREZ: John, I'm going</p> <p>23 to object. You're straying from the</p> <p>24 subject of this adversary and going into</p> <p>25 another, and I'm really not comfortable</p>
<p style="text-align: right;">Page 258</p> <p>1 Dondero - 5-28-2021</p> <p>2 with that since he's only prepared for</p> <p>3 his – his – for this proceeding and has</p> <p>4 not refreshed himself on anything else.</p> <p>5 So, this is outside of what the scope of</p> <p>6 this deposition ought to be.</p> <p>7 MR. MORRIS: Okay. So you have two</p> <p>8 choices, Deborah: You can either state</p> <p>9 your objection, "beyond the scope," or you</p> <p>10 can direct the witness not to answer.</p> <p>11 Which would you like to do?</p> <p>12 MS. DEITSCH-PEREZ: I am going to</p> <p>13 state my objection that it's beyond the</p> <p>14 scope, but I'm asking you because – as a</p> <p>15 matter of fairness, that you restrain</p> <p>16 yourself and limit your deposition to this</p> <p>17 adversary proceeding –</p> <p>18 MR. MORRIS: Okay. I appreciate –</p> <p>19 MS. DEITSCH-PEREZ: – and not –</p> <p>20 (Simultaneous conversation.)</p> <p>21 MS. DEITSCH-PEREZ: And if the</p> <p>22 witness isn't prepared to answer these</p> <p>23 questions, it's not fair that you proceed</p> <p>24 on them.</p> <p>25 MR. MORRIS: Okay. So I'll just say</p>	<p style="text-align: right;">Page 259</p> <p>1 Dondero - 5-28-2021</p> <p>2 that for a couple of questions to ask the</p> <p>3 former CEO about a 7.4 million-dollar</p> <p>4 payment made to an affiliate that he owns</p> <p>5 or controls, I'm going to ask you to give</p> <p>6 me a little latitude.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Mr. Dondero, were those two payments</p> <p>9 backed up by promissory notes in favor of the</p> <p>10 debtor, to the best of your knowledge?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay.</p> <p>13 MR. MORRIS: Let's go to the next</p> <p>14 page, please.</p> <p>15 Can we go towards the middle of the</p> <p>16 page. Right there. That's fine.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see your name, James Dondero,</p> <p>19 there?</p> <p>20 A. Yes.</p> <p>21 Q. And you were paid \$3.75 million</p> <p>22 within a year of the bankruptcy, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Who determined that you should –</p> <p>25 who made the decision for Highland to pay you</p>

<p>Page 260</p> <p>1 Dondero - 5-28-2021</p> <p>2 that amount?</p> <p>3 A. Me? I don't know.</p> <p>4 Q. Is there anybody else who had the</p> <p>5 authority to determine your compensation prior</p> <p>6 to the petition date, other than yourself?</p> <p>7 A. Especially – besides myself –</p> <p>8 okay. Let me answer that question first.</p> <p>9 The Class A – majority Class A</p> <p>10 holders can, and then I can.</p> <p>11 Q. Anybody else?</p> <p>12 A. Not that – not that I know.</p> <p>13 Q. In practice, did anybody other than</p> <p>14 you set your compensation?</p> <p>15 A. In practice, yes, sometimes majority</p> <p>16 Class A did.</p> <p>17 Q. And at any time prior to the</p> <p>18 petition date, can you think of an instance</p> <p>19 where the majority of the Class A refused to</p> <p>20 compensate you in the manner in which you</p> <p>21 wanted?</p> <p>22 A. There was – no, because there was</p> <p>23 no reason to because there was plenty of head</p> <p>24 room in all the agreements and compared to</p> <p>25 market levels.</p>	<p>Page 261</p> <p>1 Dondero - 5-28-2021</p> <p>2 MR. MORRIS: Let's go to the next</p> <p>3 document, please.</p> <p>4 (Exhibit 20 introduced.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Are you aware that, during the</p> <p>7 course of the bankruptcy proceeding, the</p> <p>8 debtor, in addition to the schedules and SoFAs,</p> <p>9 also filed every month a document called the</p> <p>10 "Monthly Operating Report"?</p> <p>11 A. I'm not aware, specifically.</p> <p>12 Q. Did you ever review any of the</p> <p>13 debtor's Monthly Operating Reports?</p> <p>14 A. Not that I can recall.</p> <p>15 Q. Okay.</p> <p>16 MR. MORRIS: We can scroll down a</p> <p>17 bit.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. You see there's – there's two</p> <p>20 signatures here: One electronic, one</p> <p>21 handwritten, both dated December 2nd. Do you</p> <p>22 see that Brad Sharp has signed as an authorized</p> <p>23 individual as the Chief Restructuring Officer?</p> <p>24 A. Yup.</p> <p>25 Q. Okay. And then below that, there's</p>
<p>Page 262</p> <p>1 Dondero - 5-28-2021</p> <p>2 the electronic signature of Mr. Waterhouse. Do</p> <p>3 you see?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Were – to the best of your</p> <p>6 knowledge as the CEO at the time, were</p> <p>7 Mr. Sharp and Mr. Waterhouse authorized to sign</p> <p>8 and file Monthly Operating Reports with the</p> <p>9 Court?</p> <p>10 A. Again, it's not my sphere of</p> <p>11 knowledge. It looks like – individually or</p> <p>12 jointly, I – I don't have a comment.</p> <p>13 Q. I'm just asking you, as the CEO, did</p> <p>14 you expect Mr. Waterhouse and Mr. Sharp to take</p> <p>15 care of all financial disclosures required</p> <p>16 under the bankruptcy code?</p> <p>17 A. Yes.</p> <p>18 Q. And did you expect them to do that</p> <p>19 completely, transparently and accurately?</p> <p>20 A. Yes.</p> <p>21 Q. Do you have any reason to believe</p> <p>22 that they failed to do so?</p> <p>23 A. Not that I'm aware.</p> <p>24 MR. MORRIS: Can we go to page 6 of</p> <p>25 11?</p>	<p>Page 263</p> <p>1 Dondero - 5-28-2021</p> <p>2 (Scrolling.)</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. You haven't seen this document</p> <p>5 before; is that right?</p> <p>6 A. I do not believe so.</p> <p>7 Q. Okay. But you see that it was filed</p> <p>8 in late January 2020, but it was signed in</p> <p>9 December, right?</p> <p>10 A. Yeah.</p> <p>11 Q. Okay. And do you see that among the</p> <p>12 assets listed are amounts "Due from</p> <p>13 affiliates"?</p> <p>14 A. Yep.</p> <p>15 Q. And do you have any reason to</p> <p>16 believe that the amounts due from affiliates</p> <p>17 are anything other than the same notes and</p> <p>18 amounts due that we saw in the audited</p> <p>19 financial statements?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 A. I don't know.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Okay.</p> <p>25 THE WITNESS: I do look at this and</p>

<p>Page 264</p> <p>1 Dondero - 5-28-2021</p> <p>2 get wistful. You guys should be ashamed of</p> <p>3 yourselves, what you've done to this</p> <p>4 company.</p> <p>5 MR. MORRIS: I move to strike.</p> <p>6 Can we take a look at footnote (1),</p> <p>7 please?</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Do you see that it "Includes various</p> <p>10 notes receivable at carrying value"?</p> <p>11 Do you have any understanding of</p> <p>12 what that –</p> <p>13 MS. DEITSCH-PEREZ: You didn't state</p> <p>14 the whole sentence, John. Please, if</p> <p>15 you're going to point him to things, read</p> <p>16 him the whole sentence.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Sir, do you have any understanding</p> <p>19 as to what footnote (1) refers to or means?</p> <p>20 A. It says what it says.</p> <p>21 Q. Okay.</p> <p>22 MR. MORRIS: Let's look at the next</p> <p>23 document, please.</p> <p>24 (Exhibit 21 introduced.)</p> <p>25 MR. MORRIS: All right. So if you</p>	<p>Page 265</p> <p>1 Dondero - 5-28-2021</p> <p>2 could just stop right there.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. This is the Monthly Operating Report</p> <p>5 for the period ending November 2019. Do you</p> <p>6 see that?</p> <p>7 A. Yes.</p> <p>8 MR. MORRIS: Can we scroll down a</p> <p>9 bit?</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. And that's Mr. Sharp's and</p> <p>12 Mr. Waterhouse's signatures, correct?</p> <p>13 A. Yes.</p> <p>14 Q. Do you see on this version,</p> <p>15 Mr. Sharp is identified as the "Responsible</p> <p>16 Party," but Mr. Waterhouse is identified as the</p> <p>17 "Preparer"?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall ever telling Mr.</p> <p>20 Waterhouse, in his capacity as the preparer of</p> <p>21 Monthly Operating Reports, that there was</p> <p>22 anything inaccurate in any Monthly Operating</p> <p>23 Report filed by the debtor?</p> <p>24 A. No.</p> <p>25 Q. Do you recall ever telling</p>
<p>Page 266</p> <p>1 Dondero - 5-28-2021</p> <p>2 Mr. Sharp, as the responsible party, that there</p> <p>3 was anything inaccurate in any monthly –</p> <p>4 Monthly Operating Report filed by the debtor?</p> <p>5 A. No.</p> <p>6 MR. MORRIS: Can we go to the next</p> <p>7 page, please?</p> <p>8 (Scrolling.)</p> <p>9 THE WITNESS: I'm going to give the</p> <p>10 12-minute warning here. I can be back at</p> <p>11 4:00, but I'm going to need a couple hours.</p> <p>12 MR. MORRIS: I'm trying to finish</p> <p>13 up, okay?</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. MORRIS: I'd rather not come</p> <p>16 back, to be honest with you.</p> <p>17 Can we go to the next page, please?</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Again, the debtor reported that the</p> <p>20 amounts due from affiliates were assets of the</p> <p>21 debtor's estate, correct?</p> <p>22 A. Yep.</p> <p>23 Q. Do you – do you have any issue with</p> <p>24 the fact that the debtor reported the notes,</p> <p>25 including your own notes, as assets of the</p>	<p>Page 267</p> <p>1 Dondero - 5-28-2021</p> <p>2 estate?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 A. Until they're forgiven, they're bona</p> <p>6 fide notes.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. And you don't think the "conditions</p> <p>9 subsequent" agreement that you entered into</p> <p>10 with Nancy calls into question whether the</p> <p>11 debtor would ever recover on their notes that</p> <p>12 you issued to them?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Again, I don't believe it's material</p> <p>16 or GAAP, is my understanding.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Well, almost a third of the debtor's</p> <p>19 assets are notes "Due from affiliates," right?</p> <p>20 A. You have to back out Hunter</p> <p>21 Mountain, and you have to back out – you have</p> <p>22 to back out about 80 million to get to the 70</p> <p>23 million of affiliated notes; and then, from</p> <p>24 there, you have to back out 60 of them to get</p> <p>25 to the 9 million.</p>

<p style="text-align: right;">Page 268</p> <p>1 Dondero - 5-28-2021</p> <p>2 MS. DEITSCH-PEREZ: Mr. Morris,</p> <p>3 please don't make faces at Mr. Dondero.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Why – why are we backing out Hunter</p> <p>6 Mountain?</p> <p>7 A. I think the Hunter Mountain – there</p> <p>8 were notes going both ways, but I think the</p> <p>9 Hunter Mountain is out of the estate, I</p> <p>10 believe.</p> <p>11 Q. But Hunter Mountain – the debtor</p> <p>12 held notes that were made by Hunter Mountain in</p> <p>13 the approximate amount of \$60 million, right?</p> <p>14 A. But subsequent to these dates, I</p> <p>15 think – I think they realized it was just a</p> <p>16 cross-transaction. There were dues and</p> <p>17 payables that were essentially equal from</p> <p>18 Hunter Mountain, so I think Hunter Mountain</p> <p>19 came out of that.</p> <p>20 Q. Isn't it – isn't it a fact that</p> <p>21 they wrote them off because they didn't believe</p> <p>22 they were collectible?</p> <p>23 A. Yeah, because the payment on those</p> <p>24 notes depended upon Highland honoring its</p> <p>25 agreements to Hunter Mountain, which Highland</p>	<p style="text-align: right;">Page 269</p> <p>1 Dondero - 5-28-2021</p> <p>2 had no intention of doing. So, there's no</p> <p>3 ability for Hunter Mountain to pay Highland.</p> <p>4 Q. Does Highland – does Hunter</p> <p>5 Mountain today have the ability to pay back any</p> <p>6 of the \$60 million that it – that was</p> <p>7 reflected in the notes?</p> <p>8 MS. DEITSCH-PEREZ: Object.</p> <p>9 A. No, not that I know of but –</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Okay.</p> <p>12 MS. DEITSCH-PEREZ: And, Mr. Morris,</p> <p>13 once again, I think we're straying from</p> <p>14 this adversary.</p> <p>15 MR. MORRIS: Can we go to page 5 of</p> <p>16 9, please?</p> <p>17 (Scrolling.)</p> <p>18 MR. MORRIS: Above that, I think.</p> <p>19 Next page, 5 of 9. We must be looking at</p> <p>20 the wrong exhibit.</p> <p>21 Is the one that was marked 22? No,</p> <p>22 it's the next – I believe it's the next</p> <p>23 document.</p> <p>24 Let's pull up the next document,</p> <p>25 please.</p>
<p style="text-align: right;">Page 270</p> <p>1 Dondero - 5-28-2021</p> <p>2 (Exhibit 22 introduced.)</p> <p>3 MR. MORRIS: Yeah, that's it.</p> <p>4 Go to page 5, please. Thank you.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Do you see that box there? It says</p> <p>7 "Non-Operating Receipts - Other."</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And do you understand that</p> <p>10 that shows that, in December 2019, while you</p> <p>11 were still personally in control of the debtor,</p> <p>12 that certain payments of "principle or</p> <p>13 interest" were made with respect to notes made</p> <p>14 in favor of the debtor?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And do you understand that</p> <p>17 the one dated December 23rd in the approximate</p> <p>18 amount of \$783,000, that was a payment that was</p> <p>19 made by you?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 A. If you say so. I don't have a basis</p> <p>23 for denying it or confirming it.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Okay. But it's true, you do recall</p>	<p style="text-align: right;">Page 271</p> <p>1 Dondero - 5-28-2021</p> <p>2 that in December 2019, after the petition date,</p> <p>3 while you were still in control of the debtor,</p> <p>4 that certain payments of principal and interest</p> <p>5 were made on notes that were made in favor of</p> <p>6 the debtor, correct?</p> <p>7 MS. DEITSCH-PEREZ: Asked – asked</p> <p>8 and answered about an hour ago.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. You can answer, sir.</p> <p>11 A. I believe – I believe so.</p> <p>12 Q. Thank you. Do you recall that in</p> <p>13 connection with its Plan and Disclosure</p> <p>14 Statement, that the debtor prepared a</p> <p>15 Liquidation Analysis?</p> <p>16 A. Yes.</p> <p>17 MR. MORRIS: Can we call the next</p> <p>18 document up on the screen, please?</p> <p>19 (Exhibit 23 introduced.)</p> <p>20 MR. MORRIS: And if we can go to the</p> <p>21 next page.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Your lawyers and lawyers acting on</p> <p>24 behalf of entities you own and control or</p> <p>25 otherwise have an interest spent considerable</p>

<p>Page 272</p> <p>1 Dondero - 5-28-2021</p> <p>2 time on the debtor's Liquidation Analysis and</p> <p>3 confirmation.</p> <p>4 Do you remember that?</p> <p>5 A. I can't – I can't agree or disagree</p> <p>6 with that.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. Did you personally review the</p> <p>9 debtor's Liquidation Analysis?</p> <p>10 A. Briefly.</p> <p>11 Q. Okay.</p> <p>12 MR. MORRIS: Can we go to the next</p> <p>13 page, please?</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Do you see that this page contains a</p> <p>16 list of "Assumptions"?</p> <p>17 A. Yes.</p> <p>18 MR. MORRIS: And can we scroll up a</p> <p>19 little further so we can see the date?</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. You'll see that on November 24th,</p> <p>22 2020, the debtor filed a Liquidation Analysis</p> <p>23 that contained, as among the Assumptions,</p> <p>24 quote, "All demand notes are collected in the</p> <p>25 year 2021." Do you see that?</p>	<p>Page 273</p> <p>1 Dondero - 5-28-2021</p> <p>2 A. Yes.</p> <p>3 Q. Did you or anybody acting on your</p> <p>4 behalf ever inform the Court that you believed</p> <p>5 that assumption was unreasonable?</p> <p>6 A. I – I don't know, but I know we've</p> <p>7 been fighting the notes consistently through</p> <p>8 various mechanisms.</p> <p>9 Q. Okay. Did you or anybody acting on</p> <p>10 your behalf ever inform the Court of your</p> <p>11 agreement with Nancy?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. Not – not that I know of.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Did you ever instruct anybody to</p> <p>17 inform the Court that you had an agreement with</p> <p>18 Nancy that rendered Assumption C unreasonable?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I did not.</p> <p>22 MR. MORRIS: Let's look at the last</p> <p>23 document, please.</p> <p>24 (Exhibit 24 introduced.)</p> <p>25 BY MR. MORRIS:</p>
<p>Page 274</p> <p>1 Dondero - 5-28-2021</p> <p>2 Q. Do you recall that there came a time</p> <p>3 just prior to the confirmation hearing that the</p> <p>4 debtor amended its Liquidation Analysis?</p> <p>5 A. No. Okay. Yes.</p> <p>6 MR. MORRIS: Okay. And if we could</p> <p>7 go to the next page.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. You'll see at the bottom right-hand</p> <p>10 corner it's dated January 28th, 2021.</p> <p>11 MR. MORRIS: We wanted page up but</p> <p>12 just – yeah, page up, the assumptions.</p> <p>13 Yeah, right there.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. You see it's dated January 28, 2021?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And let's look at Assumption</p> <p>18 C. It's been amended somewhat.</p> <p>19 And it now says, quote: "All demand</p> <p>20 notes are collected in the year 2021; 3 term</p> <p>21 notes defaulted and have been demanded based on</p> <p>22 default provisions; payment estimated in 2021."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Did you or anybody on your behalf</p>	<p>Page 275</p> <p>1 Dondero - 5-28-2021</p> <p>2 ever inform the Court that this assumption was</p> <p>3 unreasonable?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. Yes. Well, Lynn wrote a letter to</p> <p>7 all the counsels, which I think ended up being</p> <p>8 put in the Court record, that the notes were</p> <p>9 all subject to defenses and could not be</p> <p>10 considered unencumbered, I think, if they're</p> <p>11 sold, or whatever. He was – he was – he –</p> <p>12 he realized the attitude towards the notes had</p> <p>13 shifted, and he penned something to everybody</p> <p>14 and to make the notes so that they couldn't be</p> <p>15 sold without notifying people that there were</p> <p>16 good defenses to them.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Did you or anybody acting on your</p> <p>19 behalf ever challenge this assumption in</p> <p>20 connection with the debtor's confirmation</p> <p>21 hearing?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form, asked and answered.</p> <p>24 A. Yeah. I think Lynn's letter</p> <p>25 objected to that vehemently. It was just</p>

<p>Page 276</p> <p>1 Dondero - 5-28-2021</p> <p>2 ignored.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Do you know anything else --</p> <p>5 anything else you're aware of?</p> <p>6 A. I think that's powerful enough.</p> <p>7 Q. That's not my question, sir. My</p> <p>8 question is: Are you aware of any other facts</p> <p>9 that you're relying upon to answer my question</p> <p>10 as to whether or not you or anybody acting on</p> <p>11 your behalf informed the Court that Assumption</p> <p>12 C is unreasonable?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Just the Lynn letter. I have no</p> <p>16 other specific awareness.</p> <p>17 MR. MORRIS: Thank you very much. I</p> <p>18 have no further questions. Thank you so</p> <p>19 much, folks. Been a pleasure.</p> <p>20 MS. DEITSCH-PEREZ: Reserve until</p> <p>21 trial.</p> <p>22 (Time Noted: 1:59 p.m.)</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 277</p> <p>1 Dondero - 5-28-2021</p> <p>2 CERTIFICATE</p> <p>3 STATE OF TEXAS)</p> <p>4)</p> <p>5 COUNTY OF ELLIS)</p> <p>6 I, Daniel J. Skur, a Notary Public</p> <p>7 within and for the State of Texas, do</p> <p>8 hereby certify:</p> <p>9 That JAMES DONDERO, the witness whose</p> <p>10 deposition is hereinbefore set forth, was</p> <p>11 duly sworn by me and that such deposition</p> <p>12 is a true record of the testimony given by</p> <p>13 such witness.</p> <p>14 That pursuant to Rule 30 of the Federal</p> <p>15 Rules of Civil Procedure, signature of the</p> <p>16 witness was not reserved by the witness or</p> <p>17 other party before the conclusion of the</p> <p>18 deposition;</p> <p>19 I further certify that I am not</p> <p>20 related to any of the parties to this</p> <p>21 action by blood or marriage; and that I am</p> <p>22 in no way interested in the outcome of this</p> <p>23 matter.</p> <p>24 IN WITNESS WHEREOF, I have hereunto</p> <p>25 set my hand this 28th day of May, 2021.</p> <p>26</p> <p>27</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p> <p>109</p> <p>110</p> <p>111</p> <p>112</p> <p>113</p> <p>114</p> <p>115</p> <p>116</p> <p>117</p> <p>118</p> <p>119</p> <p>120</p> <p>121</p> <p>122</p> <p>123</p> <p>124</p> <p>125</p> <p>126</p> <p>127</p> <p>128</p> <p>129</p> <p>130</p> <p>131</p> <p>132</p> <p>133</p> <p>134</p> <p>135</p> <p>136</p> <p>137</p> <p>138</p> <p>139</p> <p>140</p> <p>141</p> <p>142</p> <p>143</p> <p>144</p> <p>145</p> <p>146</p> <p>147</p> <p>148</p> <p>149</p> <p>150</p> <p>151</p> <p>152</p> <p>153</p> <p>154</p> <p>155</p> <p>156</p> <p>157</p> <p>158</p> <p>159</p> <p>160</p> <p>161</p> <p>162</p> <p>163</p> <p>164</p> <p>165</p> <p>166</p> <p>167</p> <p>168</p> <p>169</p> <p>170</p> <p>171</p> <p>172</p> <p>173</p> <p>174</p> <p>175</p> <p>176</p> <p>177</p> <p>178</p> <p>179</p> <p>180</p> <p>181</p> <p>182</p> <p>183</p> <p>184</p> <p>185</p> <p>186</p> <p>187</p> <p>188</p> <p>189</p> <p>190</p> <p>191</p> <p>192</p> <p>193</p> <p>194</p> <p>195</p> <p>196</p> <p>197</p> <p>198</p> <p>199</p> <p>200</p> <p>201</p> <p>202</p> <p>203</p> <p>204</p> <p>205</p> <p>206</p> <p>207</p> <p>208</p> <p>209</p> <p>210</p> <p>211</p> <p>212</p> <p>213</p> <p>214</p> <p>215</p> <p>216</p> <p>217</p> <p>218</p> <p>219</p> <p>220</p> <p>221</p> <p>222</p> <p>223</p> <p>224</p> <p>225</p> <p>226</p> <p>227</p> <p>228</p> <p>229</p> <p>230</p> <p>231</p> <p>232</p> <p>233</p> <p>234</p> <p>235</p> <p>236</p> <p>237</p> <p>238</p> <p>239</p> <p>240</p> <p>241</p> <p>242</p> <p>243</p> <p>244</p> <p>245</p> <p>246</p> <p>247</p> <p>248</p> <p>249</p> <p>250</p> <p>251</p> <p>252</p> <p>253</p> <p>254</p> <p>255</p> <p>256</p> <p>257</p> <p>258</p> <p>259</p> <p>260</p> <p>261</p> <p>262</p> <p>263</p> <p>264</p> <p>265</p> <p>266</p> <p>267</p> <p>268</p> <p>269</p> <p>270</p> <p>271</p> <p>272</p> <p>273</p> <p>274</p> <p>275</p> <p>276</p> <p>277</p> <p>278</p> <p>279</p> <p>280</p> <p>281</p> <p>282</p> <p>283</p> <p>284</p> <p>285</p> <p>286</p> <p>287</p> <p>288</p> <p>289</p> <p>290</p> <p>291</p> <p>292</p> <p>293</p> <p>294</p> <p>295</p> <p>296</p> <p>297</p> <p>298</p> <p>299</p> <p>300</p> <p>301</p> <p>302</p> <p>303</p> <p>304</p> <p>305</p> <p>306</p> <p>307</p> <p>308</p> <p>309</p> <p>310</p> <p>311</p> <p>312</p> <p>313</p> <p>314</p> <p>315</p> <p>316</p> 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<p>Page 278</p> <p>1 Dondero - 5-28-2021</p> <p>2 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>3 Case Name:</p> <p>4 IN THE UNITED STATES BANKRUPTCY COURT</p> <p>5 FOR THE NORTHERN DISTRICT OF TEXAS</p> <p>6 DALLAS DIVISION</p> <p>7 In re:)</p> <p>8 HIGHLAND CAPITAL) Case No.</p> <p>9 MANAGEMENT, LP,) 19-34054 L.P.</p> <p>10 Debtor,) Chapter 11</p> <p>11)</p> <p>12 HIGHLAND CAPITAL MANAGEMENT,)</p> <p>13 LP,)</p> <p>14)</p> <p>15 Plaintiff,) Adversary No.</p> <p>16 vs.) 21-03003-sgi</p> <p>17 JAMES D. DONDERO,)</p> <p>18 Defendant.)</p> <p>19 Dep. Date: 05/28/2021</p> <p>20 Deponent: JAMES DONDERO</p> <p>21</p> <p>22 Reason codes:</p> <p>23 1. To clarify the record.</p> <p>24 2. To conform to the facts.</p> <p>25 3. To correct transcription errors.</p> <p>26 CORRECTIONS:</p> <p>27 Pg. LN. Now Reads Should Read Reason</p> <p>28</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p>36</p> <p>37</p> <p>38</p> <p>39</p> <p>40</p> <p>41</p> <p>42</p> <p>43</p> <p>44</p> <p>45</p> <p>46</p> <p>47</p> <p>48</p> <p>49</p> <p>50</p> <p>51</p> <p>52</p> <p>53</p> <p>54</p> <p>55</p> <p>56</p> <p>57</p> <p>58</p> <p>59</p> <p>60</p> <p>61</p> <p>62</p> <p>63</p> <p>64</p> <p>65</p> <p>66</p> <p>67</p> <p>68</p> <p>69</p> <p>70</p> <p>71</p> <p>72</p> <p>73</p> <p>74</p> <p>75</p> <p>76</p> <p>77</p> <p>78</p> <p>79</p> <p>80</p> <p>81</p> <p>82</p> <p>83</p> <p>84</p> <p>85</p> <p>86</p> <p>87</p> <p>88</p> <p>89</p> <p>90</p> <p>91</p> <p>92</p> <p>93</p> <p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p> <p>99</p> <p>100</p> <p>101</p> <p>102</p> <p>103</p> <p>104</p> <p>105</p> <p>106</p> <p>107</p> <p>108</p> <p>109</p> <p>110</p> <p>111</p> <p>112</p> <p>113</p> <p>114</p> <p>115</p> <p>116</p> <p>117</p> <p>118</p> <p>119</p> <p>120</p> <p>121</p> <p>122</p> <p>123</p> <p>124</p> <p>125</p> <p>126</p> <p>127</p> <p>128</p> <p>129</p> <p>130</p> <p>131</p> <p>132</p> <p>133</p> <p>134</p> <p>135</p> <p>136</p> <p>137</p> <p>138</p> <p>139</p> <p>140</p> <p>141</p> <p>142</p> <p>143</p> <p>144</p> <p>145</p> <p>146</p> <p>147</p> <p>148</p> <p>149</p> <p>150</p> <p>151</p> <p>152</p> <p>153</p> <p>154</p> <p>155</p> <p>156</p> <p>157</p> <p>158</p> <p>159</p> <p>160</p> <p>161</p> <p>162</p> <p>163</p> <p>164</p> <p>165</p> <p>166</p> <p>167</p> <p>168</p> <p>169</p> <p>170</p> <p>171</p> <p>172</p> <p>173</p> <p>174</p> <p>175</p> <p>176</p> <p>177</p> <p>178</p> <p>179</p> <p>180</p> <p>181</p> <p>182</p> <p>183</p> <p>184</p> <p>185</p> <p>186</p> <p>187</p> <p>188</p> <p>189</p> <p>190</p> <p>191</p> <p>192</p> <p>193</p> <p>194</p> <p>195</p> <p>196</p> <p>197</p> <p>198</p> <p>199</p> <p>200</p> <p>201</p> <p>202</p> <p>203</p> <p>204</p> <p>205</p> <p>206</p> <p>207</p> <p>208</p> <p>209</p> <p>210</p> <p>211</p> <p>212</p> <p>213</p> <p>214</p> <p>215</p> <p>216</p> <p>217</p> <p>218</p> <p>219</p> <p>220</p> <p>221</p> <p>222</p> <p>223</p> <p>224</p> <p>225</p> <p>226</p> <p>227</p> <p>228</p> <p>229</p> <p>230</p> <p>231</p> <p>232</p> <p>233</p> <p>234</p> <p>235</p> <p>236</p> <p>237</p> <p>238</p> <p>239</p> <p>240</p> <p>241</p> <p>242</p> <p>243</p> <p>244</p> <p>245</p> <p>246</p> <p>247</p> <p>248</p> <p>249</p> <p>250</p> <p>251</p> <p>252</p> <p>253</p> <p>254</p> <p>255</p> <p>256</p> <p>257</p> <p>258</p> <p>259</p> <p>260</p> <p>261</p> <p>262</p> <p>263</p> <p>264</p> <p>265</p> <p>266</p> <p>267</p> <p>268</p> <p>269</p> <p>270</p> <p>271</p> <p>272</p> <p>273</p> <p>274</p> <p>275</p> <p>276</p> <p>277</p> <p>278</p> <p>279</p> <p>280</p> <p>281</p> <p>282</p> <p>283</p> <p>284</p> <p>285</p> <p>286</p> <p>287</p> <p>288</p> <p>289</p> <p>290</p> <p>291</p> <p>292</p> <p>293</p>	

<p>1 Dondero - 5-28-2021 2 INDEX 3 WITNESS: EXAMINATION BY PAGE: 4 JAMES DONDERO 5 Mr. Morris 107 6 7 EXHIBITS 8 Defendant's PAGE/LINE 9 Exhibit 1 2/2/2020 Promissory Note 108/16 10 2 pages 11 Exhibit 2 February 2020 Highland 118/21 12 Capital Management, L.P. 13 Operating Results 14 12 pages 15 Exhibit 3 8/1/2020 Promissory Note 121/8 16 2 pages 17 Exhibit 4 8/13/2018 Promissory Note 127/2 18 2 pages 19 Exhibit 5 August 2018 Highland 130/14 20 Capital Management, L.P. 21 Operating Results 22 9 pages 23 Exhibit 6 12/3/2020 Demand Letter 132/11 24 3 pages 25 Exhibit 7 Defendant James Dondero's 136/8 Original Answer 8 pages Exhibit 8 Defendant James Dondero's 158/2 Objections and Responses to Highland Capital Management, L.P.'s First Request For Admissions 6 pages</p>	<p>1 Dondero - 5-28-2021 2 EXHIBITS 3 Defendant's PAGE/LINE 4 Exhibit 9 Defendant James Dondero's 160/23 Objections and Answers to Highland Capital Management, L.P.'s First Set of Interrogatories 6 pages 7 8 Exhibit 10 Defendant James Dondero's 169/10 Amended Answer 8 pages 9 10 Exhibit 11 Defendant James Dondero's 191/8 Objections and Responses to Highland Capital Management, L.P.'s Second Request For Admissions 5 pages 11 12 Exhibit 12 Exhibit 20, Defendant 206/4 James Dondero's Objections and Answers to Highland Capital Management, L.P.'s Second Set of Interrogatories 7 pages 13 14 Exhibit 13 Highland Capital 220/20 Management, L.P.'s Consolidated Financial Statements and Supplemental Information 12/31/2020 48 pages 15 16 17 Exhibit 14 5/18/2020 Management 234/21 Representation Letter 11 pages 18 19 Exhibit 15 Highland Capital 237/3 Management, L.P.'s Consolidated Financial Statements and Supplemental Information 12/31/2018 46 pages 20 21 22 23 24 25</p>
<p>1 Dondero - 5-28-2021 2 EXHIBITS 3 Defendant's PAGE/LINE 4 Exhibit 16 6/3/2019 Management 247/7 Representation Letter 11 pages 5 6 Exhibit 17 12/13/2019 Summary of 247/20 Assets and Liabilities For Nonindividuals 3 pages 7 8 Exhibit 18 (Skipped by Agreement) 9 10 Exhibit 19 12/13/2019 Statement of 255/11 Financial Affairs For Nonindividuals Filing Bankruptcy 42 pages 11 12 Exhibit 20 10/31/2019 Monthly 261/4 Operating Report 11 pages 13 14 Exhibit 21 10/31/2019 Monthly 264/24 Operating Report 11 pages 15 16 Exhibit 22 December 2019 Monthly 270/2 Operating Report 9 pages 17 18 Exhibit 23 Exhibit C, Liquidation 271/19 Analysis/Financial Projections 8 pages 19 20 Exhibit 24 1/28/2021 Highland Capital 273/24 Management LP Disclaimer For Financial Projections 7 pages 21 22 23 24 25</p>	

\$	05/28/2021 278:11	15 237:3 281:22	127:24 130:21 131:5, 12,17,20 143:15 194:9 221:8 222:13 226:19 232:8,13,24 233:12 234:11 235:13 237:6 238:6, 24 239:10 241:23 242:10 243:23 244:21 280:16	247/20 282:6
\$1 214:7,19	Object 211:5	158/2 280:22		247/7 282:4
\$11.7 232:16 234:8	1	16 136:18 137:6 232:9 247:7 282:4		24th 272:21
\$14.9 241:23 242:16	1 108:16 120:5 163:23 165:9 192:19 197:10 200:3 207:15,23 208:7 215:21 218:3 219:20 234:10 253:18 278:13 280:9	160/23 281:4		255/11 282:9
\$150 252:6	1(a) 162:21	169/10 281:7		261/4 282:12
\$150.3 252:21	1/28/2021 282:21	17 217:10 221:5 247:20 282:6		264/24 282:14
\$2,000,000 236:16	10 169:10 281:7	18 148:11 199:7 217:11 232:13,24 254:25 255:5,6,9 282:8		270/2 282:16
\$2.5 121:20,23 122:4 127:24	10/31/2019 282:12, 14	18th 222:13 232:8 235:13		271/19 282:18
\$3,825,000 108:21 109:24 111:5,10	107 280:5	19 199:10,12 244:18 254:25 255:10,11 257:4 282:9		273/24 282:21
\$3.75 259:21	108/16 280:9	19-34054 278:6		28 274:15
\$3.8 119:24 120:17	10:30 151:15	191/8 281:9		28th 107:9 159:11 274:10 277:14
\$3.9 233:9	10:40 151:15	1:30 204:20		2:00 246:22
\$5 131:6	11 191:7,8 251:23 262:25 278:6 281:9 282:5	1:59 276:22		2nd 109:25 111:8 234:11 261:21
\$60 268:13 269:6	118/21 280:10	1st 121:19,24 160:17 232:12		3
\$63 231:16	12 206:3,4 280:12 281:13	2		3 121:7,8 233:8 244:22 274:20 278:14 280:13,19
\$7.4 257:16	12-minute 266:10	2 108:20 109:22 110:16,18,19 118:20, 21 122:7,10 128:3,5 184:10 232:24 256:14 280:10,15		3.8 120:4
\$7.8 233:10	12/13/2019 282:6,9	2.5 131:11		3.825 233:4 234:9
\$783,000 270:18	12/3/2020 280:18	2/2/2020 280:9		30 277:8
\$8.8 242:15	12/31/2020 281:19	20 144:6 149:11,12, 13 261:4 281:13 282:12		30(b)(6) 195:9
\$80 196:14	121/8 280:13	2000 195:12		31 223:6
\$9 160:11	127/2 280:14	2015 225:12		31st 221:17 222:3 224:11 237:6 238:6 239:10 243:23 244:21
\$9.3 253:8	12:30 204:20	2017 221:17 222:3 223:6 224:11,22 225:24 226:7 237:18		32 217:11
(12th 250:8	2018 108:20 109:22, 25 110:18 111:8 115:13,14 119:12 120:14,17 121:19,24		33408 235:3
(1) 264:6,19	13 127:24 220:19,20 253:14 281:16			33419 247:10
-	130/14 280:16			33424 237:8
-----	132/11 280:18			33451 240:15
EXHIBITS-----	136/8 280:20			33461 243:15
----- 280:7 281:2 282:2	13th 254:4			33470 221:21
-----I 280:2	14 159:20,24 226:9 234:21 281:20			33499 223:21
0				33510 232:2
0.2 224:14				34 257:5

3471 223:3 35 204:24 205:14 3rd 132:14,22 237:11 <hr/> 4 <hr/> 4 126:25 127:2 162:16 191:18 200:6,13,21 207:12 256:18 280:14 40 141:20 143:9 151:22 152:16 153:9 163:3 170:15 171:22 173:7 174:11,17 176:7,16,23 179:9,19 180:2,8,12,17,25 181:9,20 183:6 185:21 186:17 187:12,15 190:5 45 200:16 45th 277:20 46 281:25 4:00 266:11 <hr/> 5 <hr/> 5 130:12,14 138:7 139:8 269:15,19 270:4 280:16 281:12 5-28-2021 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1	168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 5/18/2020 281:20 56 254:9 <hr/> 6 <hr/> 6 132:10,11 141:16 162:16 170:9 207:12 262:24 280:18 6/3/2019 282:4 60 267:24	<hr/> 7 <hr/> 7 136:7,8 280:20 7.4 259:3 7/7/2022 277:19 70 196:13 267:22 71 251:25 <hr/> 8 <hr/> 8 114:6,10 141:17 157:25 158:2 170:9 280:21,22 282:20 8/1/2020 280:13 8/13/2018 280:14 80 267:22 810 277:20 877 702-9580 277:21 <hr/> 9 <hr/> 9 160:22,23 177:8 186:13 235:2 267:25 269:16,19 281:4 9:33 107:10,17 <hr/> A <hr/> a.m. 107:10,17 ability 123:5 126:7 148:17 187:7 269:3,5 absolutely 176:9 accelerate 123:11 accept 133:10 accordance 107:6 account 160:16 242:14 accounted 120:25 accounting 116:24, 25 117:5 118:15 119:17 120:22 123:24 124:11,17,23	197:21 224:20,22,25 225:6,10 233:16 250:21 251:4 accounts 234:7 253:19 accrued 128:16 accurate 163:24 165:6,14 166:13,17, 18 193:3 194:7 226:3,6 232:19 233:20 238:8 242:19 accurately 142:3 148:7 163:9 207:23 233:23 262:19 Acis 248:20 acted 145:3 155:12 174:10,15 acting 127:22 134:5, 13,21 150:18,23 157:13 202:19 203:17,18 271:23 273:3,9 275:18 276:10 action 158:9 277:12 add 142:12 added 170:18,22 addition 261:8 additional 177:15 182:8 183:23 184:13 187:7 addressed 132:14 admission 158:13 159:20,24 192:11,19 197:10 200:3,13 201:5,22 admissions 191:15 280:24 281:11 admit 159:24 192:4, 19 200:22 admitted 160:8 193:2 198:2 adopted 179:24 adversary 134:16 137:9 257:24 258:17 269:14 278:9	advice 179:3 advisement 215:18 Advisors 224:13 228:12,16 235:12 257:11,15 Affairs 255:15 282:10 affiliate 241:13 259:4 affiliated 196:13 231:5,14 267:23 affiliates 209:7,21 210:13 223:8,13 224:3,4,19 238:11,19 240:19,25 263:13,16 266:20 267:19 affirm 129:12 affirmative 141:21 147:16,19,22 170:12 afternoon 205:19 aggregate 130:10 177:9 196:12 241:22 252:5,19 257:16 agree 114:12 128:6 130:7 139:14 142:5, 18 143:2 150:24 152:21 198:20 214:4, 16 222:10,11 249:20, 21 272:5 agreed 141:23 143:23 145:14,15 146:3 150:19 157:15 164:14 219:17 agreement 128:19 143:8 144:10,15,19 145:4 147:3,9,17,23 148:4,12,16 151:20 152:4,15 153:8 154:4,7,15,19 155:3, 4,21 156:8,10,16,17, 23,24 157:7,11,15,20 162:20,25 163:2,5, 11,14,18,21,25 164:10,13 167:20 168:2 173:6,8,18 174:10,16,23 175:3, 4,7,19 176:6,8,10,15, 22 178:19 179:4,9, 18,25 180:7,11,16,24 181:8,19 182:3 183:5
---	---	---	--	---

<p>184:17 185:21 186:17 187:11,14,23 188:6 190:5 198:23 199:16 207:17,25 208:9,21 211:2 212:8,15,19 214:3 216:2 217:2,6,25 218:16,23 219:16 220:5,12 231:3,7 238:25 239:10,17 240:9 242:24 243:25 244:13,14,15 245:3 267:9 273:11,17 282:8</p> <p>agreements 114:15 143:5 155:9 156:15 164:23,24 165:11 169:4 177:17,18 178:25 260:24 268:25</p> <p>ahead 190:10 195:17</p> <p>allowed 168:12</p> <p>ambiguous 200:9, 20,25 201:10,25 202:9,21 203:11,20</p> <p>amend 193:10 254:17</p> <p>amended 142:8,12, 16,17 148:14 152:16, 17 153:10,22 154:2,3 164:20 169:12 171:21 200:8,16,22 254:3 274:4,18 281:8</p> <p>amendment 168:6 172:19 243:3</p> <p>amicable 135:10</p> <p>amount 108:20 111:14 121:19 123:20 124:8,13,19 127:24 160:2,6,9,11 184:20 185:23 186:3, 9,12,21,22 187:6 193:24 196:12 211:23 213:17 214:19 231:15 232:15 233:25 241:12,22 252:5,19, 20 253:7 257:16 260:2 268:13 270:18</p> <p>amounts 120:10 123:10 160:15</p>	<p>193:12 223:8,12 224:2,12,19 238:10, 19 240:19,24 263:12, 16,18 266:20</p> <p>analysis 112:13,18 271:15 272:2,9,22 274:4</p> <p>Analysis/financial 282:19</p> <p>and/or 192:22 197:11 198:5,12 199:12 209:6,7,20 210:11,12</p> <p>announcement 188:18</p> <p>annual 226:10</p> <p>answers 139:15 161:4 162:4 164:20, 21 207:2 281:4,14</p> <p>apologies 168:23</p> <p>apologize 164:7 181:15 204:10 205:11 233:3</p> <p>application 197:9, 14,19</p> <p>applied 192:21 198:5,16</p> <p>applying 199:25</p> <p>approval 127:12 141:15</p> <p>approve 159:14 174:10 240:22 241:5, 13</p> <p>approximate 253:7 268:13 270:17</p> <p>approximately 160:11 196:13 225:11 226:9 252:6</p> <p>April 159:11</p> <p>arbitration 115:11</p> <p>argue 245:18</p> <p>argument 140:21</p> <p>arisen 199:6</p> <p>arrangement 183:2</p> <p>ashamed 264:2</p>	<p>Asia 254:22</p> <p>asks 159:24 192:19 200:21</p> <p>aspect 135:18 208:17,20 216:19 218:23 246:2</p> <p>assert 157:12</p> <p>asserted 200:9</p> <p>asserts 141:21 160:10 200:20</p> <p>asset 120:14 212:6</p> <p>asset all 238:10</p> <p>assets 177:3 187:19, 20,25 188:13 190:19, 22 209:24 210:14 212:2 213:24 216:23 223:13 250:7,15 251:16,24 263:12 266:20,25 267:19 282:6</p> <p>assigned 149:16 154:13</p> <p>assistant 109:4 124:22,23</p> <p>assumption 165:24 273:5,18 274:17 275:2,19 276:11</p> <p>assumptions 272:16,23 274:12</p> <p>assure 205:20</p> <p>attention 129:6 141:19</p> <p>attitude 275:12</p> <p>attorney-client 171:16</p> <p>attorneys 159:17</p> <p>audio 109:7 196:21, 25 245:21</p> <p>audit 234:14 237:11, 18 242:19</p> <p>audited 221:9 222:22 227:11 233:19 236:21 237:5,23 238:17,24 239:8 245:9,15 247:22 263:18</p>	<p>auditing 235:20</p> <p>auditor 233:17</p> <p>auditors 220:24 221:25 222:22 237:22</p> <p>August 121:19,24 127:24 130:21 131:5, 12,17,20 280:16</p> <p>authority 127:15 260:5</p> <p>authorize 109:6 137:3 159:16 170:5 192:14 240:22 241:14</p> <p>authorized 124:25 125:7 130:2 248:7,11 261:22 262:7</p> <p>award 115:11</p> <p>aware 112:2 113:3 131:19,23 133:21 151:23,24 158:8 159:7 180:4 193:12 196:12 218:5 221:11 223:24 224:9 229:8 241:12,15 249:23 255:13 256:22,23 261:6,11 262:23 276:5,8</p> <p>awareness 110:3 119:22 120:10 141:7, 13 188:25 189:3,7 276:16</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 109:18 110:23 115:12 136:16 138:5 151:14,15 162:8 163:2,17 186:25 188:8 195:11 200:11, 17 204:24 206:18,21 236:4 246:17,25 252:25 266:10,16 267:20,21,22,24 269:5</p> <p>backed 259:9</p> <p>backing 268:5</p> <p>bad 209:22</p>	<p>balance 119:14,20 120:14,19 131:4 177:3 223:5,13 238:5,9,18</p> <p>bank 131:4</p> <p>bankruptcies 248:18</p> <p>bankruptcy 145:19 146:14 147:5 148:19 154:12 155:8 157:3 165:23 166:9,10,11 173:15 247:24 248:4, 8,14,17,21 249:3,25 251:13 253:5 256:20 257:2 259:22 261:7 262:16 278:3 282:11</p> <p>bargain 144:4,12 147:2 149:21</p> <p>barred 141:22</p> <p>based 110:18 188:4 274:21</p> <p>basis 119:19 211:12, 22 212:6 215:22 225:11 270:22</p> <p>Bates 223:20 235:3</p> <p>bathroom 151:10</p> <p>begging 168:21</p> <p>beginning 157:2 214:14</p> <p>behalf 107:23 109:5 125:2,8,16 127:15,23 128:11,15,25 130:18 134:6,14,22 135:6 136:2 137:4 141:12 144:15 145:3 146:24 150:18,23 157:13 161:5 163:11,25 164:11,13 165:10,11 167:10,21,25 169:13 170:3,6 171:10,23 173:19 174:15,23 191:23 192:12,16 198:4 202:19 203:17, 18 235:11 244:14 250:16 271:24 273:4, 10 274:25 275:19 276:11</p> <p>belief 200:24 201:9, 24 202:8,20 203:6,</p>
---	--	--	---	--

Index: believed..connection

10,19		CCS 210:21	code 262:16	complaint 135:25
believed 188:8 273:4	C	CEO 114:21 115:17	codes 278:12	complete 171:2
beneficiary 230:9,14	call 116:4 152:21	116:11 117:10	collect 112:5 141:24	completely 262:19
benefit 182:25	163:17 233:9 234:19	120:17 132:17	142:6,19 143:3,23	completeness
183:14 184:4 185:3,	271:17	220:22 223:11 248:4	144:11,17 145:5	142:15
9,20	called 116:13 136:13	256:9 259:3 262:6,13	147:4,24 150:19,25	completion 239:8
benefits 186:16	255:14 261:9	certify 161:24 277:5,	157:8,16 163:6,20	complexity 216:6
bet 137:25	calls 267:10	11	219:18	217:4
betrayed 149:15	capacity 196:18	CFO 117:4 256:2	collectability 243:7	compliant 177:11,16
big 213:24	235:12 265:20	challenge 275:19	collected 272:24	194:23,25 195:3
bit 132:16 138:5	Capital 111:4,9	chance 217:13	274:20	comply 128:11 130:8
158:6 160:25 204:8	115:5,20 118:25	Chapter 278:6	collectible 268:22	concern 115:14
236:12 261:17 265:9	121:23 132:18	character 193:16	combination 144:25	concerned 217:17
blood 277:12	148:15 166:5 207:2	characterize 122:11	comfortable 194:24	conclusion 219:7
board 148:20	224:13 228:12,24	characterized	257:25	277:10
bona 125:5 267:5	257:11,15 278:5,7	110:20	commencement	conclusively 219:24
Bonds 137:3,7	280:11,16,23 281:5,	charged 119:18	134:15,24	condition 145:15
book 211:16,17	10,14,16,22 282:21	chase 108:4	comment 113:19	155:9 199:10
borrow 124:16	capitulation 149:25	Chief 261:23	165:2,3 233:17	conditions 113:23
bottom 119:23 131:5	capture 164:22	choices 258:8	262:12	122:16 123:5 142:13
222:5 228:4 241:17	209:17 210:8 217:22	circumstances	Commission 277:19	144:23 148:8,17
257:8 274:9	captured 172:18	187:16	279:14	152:3,4 153:11
bounced 217:9	captures 153:15	Civil 277:9	committee 115:4	170:19 172:15,16
box 270:6	209:2	claims 141:22	152:6	176:9 181:5 182:21
Boy 142:21	care 262:15	clarification 142:15	commonly 114:7	188:16,19,22,24
Brad 261:22	carefully 125:20	clarified 171:2	communicate	189:15 199:5 207:16,
break 151:10,11	155:19	172:19 173:4	190:12 201:14	24 208:8,21 211:8,19
168:13 204:5,11	Carl 217:12	clarify 175:16 190:17	communications	212:2 216:20,22
205:10 246:7	carried 120:18	278:13	138:14,19 171:16	218:2 219:18 243:6,
breath 240:2,5	231:15	Class 148:14 164:15	172:7,10	11 267:8
Briefly 272:10	carry 223:12 238:9	165:17,18 168:3	comp 148:10 174:14	conducted 107:6
broader 179:16	carrying 238:18	173:11,18 174:9	186:5,7,10	confident 246:18
broke 196:22	264:10	260:9,16,19	companies 210:4,5,	confirm 163:22
bucks 186:13	case 142:21 186:20	clause 114:8 222:21	18	247:10
bunch 141:3 217:19	195:10,22 244:11	clear 112:17 174:4	company 183:24	confirmation 272:3
burden 205:12	249:25 251:13 253:5	clearer 116:7	209:6,19 210:11	274:3 275:20
business 116:13	256:20 257:2 278:3,5	close 127:13	264:4	confirming 270:23
135:7,14	cash 110:5 193:21,23	closely 111:25 112:3	compared 170:17	conflict 114:16
busy 173:2	196:3 197:18	closes 188:20	260:24	conflicts 198:22
	catches 138:15	coach 168:14	compensate 260:20	conform 278:13
	caused 216:9	Coast 204:20	compensation	confusing 115:24
	caution 138:13		152:6,8 177:10,15	255:4
	171:13		182:9,16,18 184:12,	connection 149:19
	cautioned 107:14		14,15 185:5,15,23	158:9 179:8,17
			187:3,9 260:5,14	

Index: considerable..DEITSCH-PEREZ

194:19 238:23 249:24 271:13 275:20 considerable 271:25 considerably 217:9 consideration 185:3 considered 190:23 210:5 275:10 consistent 123:24 consistently 273:7 Consolidated 221:15 222:19 223:5 237:16 238:5 281:17, 23 constraints 205:8,9 contacted 174:7 contained 128:6 272:23 contemplating 189:24 contend 156:11 contents 136:24 context 129:15 146:11 continued 238:9 continuous 225:11 contract 112:14 Contribution 231:3, 6 control 114:14 115:15 187:24 188:4 215:23 216:9,24 231:19 250:11,19 270:11 271:3,24 controlled 114:24 228:9,14,18,22 229:2 controls 209:18 259:5 conversation 139:17,24 140:23 145:13,17,21 147:8 152:24 168:9 175:8, 23 177:24 190:9	244:4 258:20 conversations 135:7,16,19 146:6,25 176:19 177:25 178:4, 12,16 202:13 copies 179:12 245:13,22 copy 180:6 245:24 corner 274:10 Cornerstone 177:5 189:4 209:13 211:3, 18 212:21 214:6,18 217:16 correct 114:22 128:25 129:10 133:19 147:20 162:5 165:6 166:25 167:9, 15 178:13,14 185:13 193:20 194:9,12 195:22 197:2,3,6 199:7 207:8 209:24 212:4 214:24 223:16 229:21 237:18,23 238:20 242:11 243:4, 8,12,23 244:3,16 248:5,8,11,21 250:12 252:21 253:24,25 257:21 259:22 265:12 266:21 271:6 278:14 CORRECTIONS 278:15 correctly 167:22 192:24 236:17 257:17 cost 190:23 191:2,3 211:16,17 212:10,21 213:3,10,16,17,22,23 214:7,20 counsel 138:14 counsels 275:7 counterparty 173:13 counterproposal 178:21 COUNTY 277:3 couple 177:25 234:24 259:2 266:11	court 138:11 140:25 205:5 251:17 262:9 273:4,10,17 275:2,8 276:11 278:3 covenants 177:11, 12 cover 119:4 244:21 COVID-19 107:8 CPA 120:22 227:21 create 193:25 250:22 created 229:21 230:21 credit 177:11,17 CRO 132:17 cross-transaction 268:16 Current 107:7 customary 235:24 237:22 cut 108:4 cycle 174:14 186:6 <hr/> D <hr/> Dallas 107:12 278:4 Daniel 277:4,18 date 107:9 110:15 143:13 215:10,11,12 222:6 232:13 244:22 253:12,14 260:6,18 271:2 272:19 278:11 dated 108:19 132:14 232:7 261:21 270:17 274:10,15 dates 225:14 268:14 day 107:9 277:14 279:11 Daylight 107:10 Deb 175:14 Deborah 118:7 145:18,20 258:8 debt 186:19 187:6 debtor 107:23	109:25 112:5 114:12 115:21 116:2 132:5, 22 133:4,22 134:3 135:14 144:16 145:3, 9,16 146:8,25 148:25 149:9 150:11,18,24 152:14 154:16 155:4, 8,11 156:9 157:2,14, 15 158:8 160:2,9,10, 16 163:12 164:2,6 165:12,19,20 166:5, 10 167:12,21 168:2,3 173:19 174:24 181:9, 13 182:14 183:14 185:4,9,14 186:19 189:3 192:21 200:23 201:8,23 202:7,19 203:5,9,17 212:22 213:12 219:17 220:11 227:25 245:8, 10 249:18,21,23 250:12 255:13 257:14 259:10 261:8 265:23 266:4,19,24 267:11 268:11 270:11,14 271:3,6,14 272:22 274:4 278:6 debtor's 134:6,14,22 135:20,25 158:12 161:5 191:14 250:4, 7,15,22 251:6,12 254:2,17 255:17,21 261:13 266:21 267:18 272:2,9 275:20 debtors 249:2,13 decade 217:10 December 132:14, 22 133:4,21 160:17 192:20 197:24 198:3, 11 199:11 221:17 222:3 223:6 224:11 237:6 238:6 239:10 243:23 244:21 250:8 251:17 253:14 254:4 256:23 261:21 263:9 270:10,17 271:2 282:16 decide 212:11 decided 124:12 197:20 212:5 216:21 decision 124:7	197:17,23 198:17 212:7 259:25 decision-maker 173:14 deeply 141:14 219:5 default 274:22 defaulted 123:9 274:21 Defendant 136:13 137:7,15 141:21 200:19 278:10 280:20,22 281:4,7,9, 13 Defendant's 206:25 280:8 281:3 282:3 defense 141:21 142:9 143:20 147:16, 19,23 defenses 140:21 141:4 170:12 275:9, 16 defined 110:14 143:16 212:9 definition 128:7 160:5 166:4 236:23 DEITSCH-PEREZ 109:12 112:10,23 113:5,16,25 115:23 116:6 118:2 120:7 123:12 125:17,25 126:11,20 131:25 134:8,17 135:2 137:22 138:12 139:2, 6,14,21 140:3,9 143:4,14 145:7,14,19 146:2,10,12,17 151:3,13 152:18,25 155:6,23 156:19 158:19 161:11 167:2 168:4,15 169:14,16 170:23 171:11,24 172:2,6 173:21 175:6,13,15,21,25 180:18 181:12 183:15 184:8,22 185:25 189:17 195:7, 23 196:8 197:15 198:25 199:18 201:12,15 202:2,10, 22 203:12,21 204:12,
--	---	--	--	--

Index: delivered..early

17 205:6 208:2,11,23 210:15 211:5 212:25 213:14 214:9,22 215:17 216:11 218:18,25 219:21 220:6,13,25 224:5 227:2,15 229:22 230:5,15,22 233:13 238:13 239:3,12,19, 25 240:4,11 241:2 242:4 244:6 245:6,19 246:4,8 248:15,23 249:5,14 250:23 251:7 252:22 254:6, 12 255:3 257:22 258:12,19,21 263:20 264:13 267:3,13 268:2 269:8,12 270:20 271:7 273:12, 19 275:4,22 276:13, 20 delivered 117:18 133:11 delivery 150:10 demand 110:9,12, 14,19 111:3,14 122:11,15,16,20 123:6,9 128:7,17,25 129:4,5,8,10 132:6, 22 133:4 134:3,6,14, 22 135:20 149:9 150:10 181:10,22 182:4 226:14 272:24 274:19 280:18 demand 133:22 149:2 274:21 denied 201:4 denying 125:5 201:21 245:12 270:23 Dep 278:11 department 119:18 224:20,22,25 225:6, 10 233:17 depended 268:24 depending 187:3 depends 166:21 depo 166:7 Deponent 278:11	deposition 107:3,5, 24 139:22 146:18 195:9 204:14 226:22 255:2 258:6,16 277:6,7,10 describe 110:11 175:5 176:3,20 243:6 describing 118:24 146:9 178:4 description 164:5 deserved 150:4 detailed 141:15 details 138:18 173:4 194:6 234:3 determine 260:5 determined 259:24 difference 234:8 242:14,22 differently 157:10 173:5 difficulty 108:7 direct 110:3 206:7 258:10 directed 168:24 directing 141:19 direction 234:2,6 directly 209:6,20 210:12 228:8,13,17, 21 229:2 231:18,24 disagree 272:5 Disaster 107:8 Disclaimer 282:21 disclose 138:14 171:15 172:6 256:24 disclosed 227:12 253:4 disclosing 232:14 disclosure 240:24 241:11 242:17,23 253:15 271:13 disclosures 249:3, 11 250:22 251:6,13 255:14 262:15	disco 246:10 discover 171:21 discovery 158:9 discuss 117:23 175:2 176:5 182:24 213:9 251:11 discussed 175:17 177:20,23 178:17 189:22 discussing 184:24 discussion 142:23 discussions 148:23 156:14 176:21 179:8, 18 dispose 211:18 disposed 211:11 disposition 209:5 216:22 distinguish 145:15 distortion 109:7 196:21,25 245:21 DISTRICT 278:4 DIVISION 278:4 docket 136:18 253:5 document 108:10,18 109:19,21 110:17,24 111:8,13 116:13 124:20 125:23 126:4, 9 127:8,10 128:24 129:18,24 130:20 136:12,17,21,24 137:4 138:25 140:18 141:9,11 151:22 153:14 158:15 159:5, 10,17 161:21,25 162:9,11 165:4,5 169:9,23 170:25 176:12,13,14 191:7, 22 192:15 198:9 206:8,25 207:12 235:2,19 237:2 245:17 246:12 247:5, 19 253:22 261:3,9 263:4 264:23 269:23, 24 271:18 273:23 document--can 137:13	documents 108:6 122:21 130:17 169:3 179:7,17 180:10 215:14 dollars 226:10 Dondero 107:1,4,13, 20 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1,21 144:1 145:1 146:1,24 147:1 148:1 149:1 150:1 151:1 152:1 153:1,6 154:1 155:1 156:1 157:1,22 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1,12 166:1 167:1,12,21 168:1,23 169:1 170:1 171:1 172:1 173:1 174:1,4 175:1 176:1,3 177:1 178:1,10 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1,17 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1,8 205:1,9 206:1,6 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1,15 216:1 217:1 218:1 219:1 220:1 221:1 222:1,6 223:1 224:1 225:1,18 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1,18 242:1 243:1 244:1 245:1,12 246:1 247:1 248:1 249:1 250:1 251:1	252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1,8,18 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1,3 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1,6 278:1,10,11 279:1,9 280:1,4 281:1 282:1 Dondero's 136:13 137:8,15 215:22 216:24 280:20,22 281:4,7,9,13 double-checking 235:21 doubtful 253:18,23 254:4,18 drafted 122:17 148:11 drafting 141:15 DSI 250:18,20 251:4 256:12 due 123:10 129:10 132:23 133:23 150:13 160:10 166:23 188:9 192:22 195:20 197:11 198:6, 12 223:8,12 224:3, 12,19 226:8 231:16 238:10,19 240:19,25 241:12 263:12,16,18 266:20 267:19 dues 268:16 Dugaboy 164:16 173:16,20,24 174:12, 16,19,21 215:4,16 229:16,20 230:3,10, 14,20 duly 107:14 277:7
E				
earlier 122:12 128:8 163:16 173:12 225:7, 13 237:18 247:15 early 142:21 148:10 152:9,10 173:19 205:19				

easiest 193:22	entity 115:7 116:2 193:23 228:13,17,21, 25	220:19,20 234:10,20, 21 237:3 247:7,20 252:8,15 254:23 255:11 261:4 264:24 269:20 270:2 271:19 273:24 280:9,10,13, 14,16,18,20,22 281:4,7,9,13,16,20, 22 282:4,6,8,9,12,14, 16,18,21	127:16 130:9 131:24 134:11 137:18 154:18 164:8 167:16 184:7 189:23 199:6 258:23	finalized 238:17
East 204:20 277:20	entries 257:10	exist 165:20	fairness 258:15	financial 221:9,15 222:2,19,22 223:25 224:10 225:22 227:11 233:18,19 236:21 237:17,23 238:24 239:9 243:21 245:8,9,15 246:3 249:12 251:6,12 255:15 262:15 263:19 281:17,23 282:10,22
effort 183:23	envisioned 216:8	exists 156:23	familiar 110:8 139:8, 10 231:5	financials 116:17, 19,23 118:4 233:24 237:5 238:17 247:22
electronic 261:20 262:2	equal 214:19 268:17	expect 262:14,18	familiarity 248:14	find 139:9
Ellis 137:3,7 277:3	equity 210:18	expected 128:18 188:2	favor 121:3,20 194:11,16 195:5,21 196:6 197:5 226:15 233:11 259:9 270:14 271:5	fine 138:20,21 151:16 152:22,23 153:2 167:4 246:4 255:8 259:16
email 117:21 190:13	equivalent 184:20	experience 222:23 235:25 248:18,20	favorable 177:2 190:24 211:11,22 212:6	finish 146:4,5 156:7 239:23 266:12
Emergency 107:7	ERRATA 278:2	expert 227:23	February 108:20 109:22,25 110:18 111:8 115:13,14 119:12 120:14,17 152:14 153:7 154:5, 10 156:12,18 157:13 189:22 208:10 212:20 213:10 214:5, 17 215:4,16 216:4,8 234:11 239:2 240:10 244:3,16,18 245:4 280:10	finished 109:11 240:3 246:24
employed 220:10	errors 278:14	Expires 277:19 279:14	Federal 277:8	firm 159:11
employee 220:4	essentially 181:25 268:17	explained 240:5	feel 167:24	fit 246:16,18
employees 124:3 183:25 227:14	established 148:9	extent 156:25	fide 125:5 267:6	focus 182:7 183:3, 11,12,17,23 184:2,6, 25 185:11 241:17
encourage 129:23	estate 135:12 149:15 154:23 155:14 157:5 166:2 189:12 266:21 267:2 268:9	extra 184:2	fighting 273:7	focused 177:4 182:13 183:7,18
end 144:7 149:11 159:2 224:22 225:2, 12 226:7 234:17 253:19	estimated 274:22	extremely 233:20	figure 246:25	folks 124:17 276:19
ended 217:7 275:7	evaluate 125:19	eye 138:15	file 137:4 192:15 262:8	follow-up 126:7
ending 222:3 224:11 237:6,8 238:6 239:9 243:22 265:5	evaluated 253:19	eyeball 137:23	filed 135:25 136:17, 21,25 137:7 141:11 169:13 170:2,5 171:10,23 172:13,22 191:22 192:11 248:3 249:24 250:2,4,8 251:16 255:14 261:9 263:7 265:23 266:4 272:22	footnote 253:17 264:6,19
enter 157:14 164:10 173:8 174:16	eve 149:25		files 247:23	for- 219:8
entered 143:9 144:15 147:3,9 148:4 152:5 156:11,17 157:12 163:10,25 165:11 167:20 168:3 173:18 174:23 180:15,25 187:23 188:5 207:18 208:10 216:3 231:6 238:25 267:9	event 172:18 187:7 189:24		filing 248:8,11 282:10	forgive 182:19 189:8 190:2,25 212:22 213:12 214:20
entering 179:3 180:11 185:20 186:16	Events 232:10 243:18 244:20	face 252:20		forgiven 148:18 176:25 177:15 184:19 190:21 194:16,20 195:6 197:6 214:8 218:6 219:7 227:22 229:10 243:11 267:5
enterprise 188:5	evidently 164:22	faces 268:3		forgiveness 148:9
enterprises 183:8	exact 187:8	facilitates 218:12		
entire 135:11 227:7	exactness 187:2	fact 113:15 114:6 122:2 135:11 159:16 162:11 195:19 198:2 209:17 221:7 256:5 266:24 268:20		
entirety 177:24 244:20	EXAMINATION 107:18 280:3	facts 112:19 172:11, 12 178:9 207:6 276:8 278:13		
entities 271:24	exchange 110:5 122:3 123:22 257:20	factual 112:20 212:11,12		
entitled 130:20 150:4,6 182:11	execute 123:21 124:9	failed 262:22		
	executed 165:13	fair 111:2 113:4 114:25 115:22 116:8		
	execution 226:13			
	exhibit 108:15,16 118:19,21 120:5 121:7,8 126:24 127:2 130:12,14 132:10,11 136:7,8 157:25 158:2 160:22,23 169:10 191:8 204:3 206:3,4			

Index: forgo..includes

154:17 177:10 182:6, 16 184:12,14 186:18 187:6 194:22 213:5 218:12 227:12	fully 207:23 245:22	handle 197:18	157:14 164:6,12,14 165:19 166:5,8,9,10 173:14 177:3,18 178:24 179:24 181:21 182:2,15,25 184:5 185:3,20 186:19 193:22,23 194:12,16,20 195:5, 13,21 196:6,25 197:5,18 207:2 209:7,15,21 210:12 214:17,20 216:10 218:10 220:4 221:8 223:11 224:10,12,17 226:15,18 227:13 228:12,24 229:9 233:11 235:11 236:19 238:8,18 244:15 245:8,15 247:23 248:3,5 250:16 251:5 255:21 256:8,24 257:11,15, 20 259:25 268:24,25 269:3,4 278:5,7 280:10,16,23 281:5, 10,14,16,22 282:21	hundred 194:24 233:21
forgo 184:19	Fund 217:18 224:13 228:12 257:11,15	handwritten 261:21	Hunter 177:12,18 179:12 231:10,14,19, 22 254:8 267:20 268:5,7,9,11,12,18, 25 269:3,4	
form 112:11 118:9 123:13 134:9,18 135:3 151:3 152:19 155:7 156:20 170:24 171:12 173:22 182:15 183:16 184:9, 23 186:2 189:18 195:24 196:9 197:16 199:2,19 201:16 208:3,12,24 210:16 211:6 213:2,15 214:10,23 216:12 218:19 219:2,22 220:7,14 221:2 224:6 227:3,16 229:23 230:6,16,23 233:14 238:14 239:4,13,20 240:12 241:3 242:5 244:7 248:16,24 249:6,15 250:24 251:8 252:23 254:7, 13 255:16 263:21 267:4,14 270:21 273:13,20 275:5,23 276:14	funds 209:8 210:13	happened 146:13 177:25		
forward 157:22	future 185:15,22 186:20 187:9	happy 129:17 137:13 161:13 168:20 200:17 204:6,10 234:23 241:10 245:23		
foundation 112:24 113:6,17 114:2 120:8 125:18 126:2,12,21 132:2 201:16 202:3, 11,23 203:13,22	<hr/> G <hr/>	hard 246:22	<hr/> I <hr/>	
fourth 148:14	GAAP 120:22 267:16	have/would 182:9, 10	Icahn 217:12	
frame 205:21	gave 153:12 154:11 179:11 196:2 245:21	HCM 116:4	idea 123:19 173:7 216:25 234:13	
Frank 117:2 217:24 218:4,5,15,24 224:23,24 225:5,9 235:15 255:25 256:10,11	general 219:5 235:13	HCMLP 111:14 115:21 116:11,12 117:10	identified 265:15,16	
front 161:22 162:12	generally 118:4 133:25 169:24 249:16	HCMLP's 119:13	identify 112:8 113:12 117:8 125:23 135:18 145:2 169:3 174:9 195:4 199:24 203:5, 16 207:15 210:20 228:6 256:6	
fulfilled 181:6	get all 214:12	HCRE 228:20	identifying 119:19	
fulfillment 170:19 172:14	give 113:7 123:20 168:13 180:5 241:10 246:7,22 249:11 259:5 266:9	head 214:13 219:13 224:21,25 225:6,10 260:23	illiquid 187:19,20,25 213:22	
full 149:13 195:19 241:11	giving 177:22 179:16 184:25 185:4	headed 119:13	immaterial 178:24	
	global 149:14	heading 223:17	impact 119:20	
	good 107:20 204:4 213:23 275:16	hear 140:3 244:8	Impacting 119:13 131:4	
	grand 144:4,12 147:2 149:20	heard 255:16	implicit 157:19	
	Grant 215:3	hearing 274:3 275:21	implicitly 150:5,7 157:18	
	great 122:18 182:14 213:23	heightened 182:13 183:17,18 184:6 185:11	important 193:15	
	group 197:21	held 151:18 205:25 268:12	improper 145:24	
	grow 187:4	helpful 163:18	inaccurate 165:15 226:25 265:22 266:3	
	guess 144:24 156:24 186:24 204:14 247:10	hereinbefore 277:6	inappropriate 139:20 195:15	
	guest 146:19	hereunto 277:13	incentive 184:3	
	guys 193:14 264:2	herewith 114:16	include 153:10 154:17 178:7 216:19 222:22 237:22 242:2	
	<hr/> H <hr/>	Highland 111:3,9 114:21,24 115:5,7, 15,18,19,21 116:4 118:25 120:13,18 121:3,20,22 123:25 124:2,18 131:17,20 132:18 135:9 146:14 148:15 152:21 153:8	included 142:23 148:22 150:7,12 224:12	
	half 204:19 217:17 226:10 232:24		includes 166:5 264:9	
	hand 277:14			

Index: including..loans

including 144:23 174:2 196:14 266:25 inconsistent 199:16 incorrect 208:18 226:25 increase 194:2 independent 148:20 179:3 221:25 indirectly 209:7,20 210:12 228:8,14,18, 21 229:2 231:18,24 indiscernible 144:18 individual 196:18 211:23 261:23 individually 262:11 inform 201:8,23 202:7 239:17 240:9 273:4,10,17 275:2 information 177:21 221:16 224:18 235:21 236:22 249:13 250:21 281:18,24 informed 200:23 202:19 203:5,10,17 276:11 inherits 155:9 initially 220:17 insiders 256:19,25 installments 226:11 instance 260:18 instruct 239:16 240:8 273:16 integration 114:8 intend 111:9,13 128:11,15 intent 210:3 intention 130:8 269:2 interest 111:10,14 128:17 129:10 132:23 133:5,23 134:23 135:21 149:3,	18 150:13 181:23 182:5 184:21 187:18 188:9 189:14 192:22 193:13,15,17 194:4 195:20 197:11,20 198:6,12,21 199:12 226:7 231:21 242:20 270:13 271:4,25 interested 249:11 277:12 interests 209:6,20 210:11 interfering 168:22 International 210:22 interplays 129:16 interpretation 112:13 122:24 126:4 interpreting 167:24 interrogatories 161:6 162:2 192:7 206:7 207:4 281:6,15 interrogatory 162:21 163:8,23 165:9 207:15,23 208:6 215:21 218:3 219:20 interrupting 146:16 introduced 108:16 118:21 121:8 127:2 130:14 132:11 136:8 158:2 160:23 169:10 191:8 206:4 220:20 234:21 237:3 247:7, 20 255:11 261:4 264:24 270:2 271:19 273:24 investigated 171:3, 6,9 172:21 investment 213:22 229:17 230:4,10,14, 20 231:10 investments 209:18 210:18 investors 217:19 involved 141:15 172:16 178:15 217:12 219:6	involvement 117:6 irrespective 150:25 issue 173:2 195:22 225:22 242:3,10,15 266:23 issued 232:15,23 241:21 242:10 267:12 issues 236:22 247:22 Item 251:24 items 119:13,20 131:3 <hr/> J <hr/> James 107:4,13 136:13 137:8,15 165:12 167:12,21 259:18 277:6 278:10, 11 279:9 280:4,20,22 281:4,7,9,13 January 152:14 153:7 154:5,9 156:11,17 157:12 159:25 189:22 208:10 212:19 213:10 214:5,17 215:4,16 216:3,8 232:12 239:2,22 240:10 244:3,16,17 245:4 263:8 274:10, 15 January/february 152:12 174:22 John 107:22 115:23 139:2 145:7 152:20 167:3 175:15 257:22 264:14 jointly 262:12 Judge 168:21 245:24 judgment 115:5 June 237:11 244:22 247:23 jury 140:25 157:22	<hr/> K <hr/> Kerri 210:22 kind 108:4 149:18 150:12 178:21 179:7, 17 196:2 248:17 knew 218:4,9 219:13 238:16 knowledge 120:22, 24 142:16 153:22 163:10 167:16 198:13,14 203:2,4,7 207:8,21 208:7 225:3 251:3 259:10 262:6, 11 KPMG 221:4 233:21 <hr/> L <hr/> L.P. 111:4,10 115:20 121:23 166:6 224:13 228:13,16 278:6 280:11,16 L.p.'s 207:3 280:23 281:5,11,14,17,23 La 254:22 language 113:12 237:22 large 177:2 208:13 largely 114:3 208:13, 25 late 263:8 latitude 259:6 lawsuit 134:25 242:3,10,16 lawyer 141:7,9 lawyers 135:7,13 138:10,19 164:21,25 172:4,7,11,25 192:15 202:13 271:23 layperson 112:20 113:14 learn 171:20 172:12 198:3,7 learned 171:3,5,8	172:21 learning 199:23 leave 143:25 led 179:8,18 left 245:11 legal 112:13,18 122:23 126:3,4 140:21 153:13,14 165:2,3 167:24 lesser 210:17 letter 132:14,25 133:8,10,17,20 149:9 150:10 222:13 232:7 235:11 237:11 247:6, 15 275:6,24 276:15 280:18 281:21 282:4 letters 234:16 levels 260:25 liabilities 250:7,16 251:16 282:6 liable 189:13 lifetime 230:9,13 limit 258:16 limitations 179:13 liquid 177:3 Liquidation 271:15 272:2,9,22 274:4 282:18 liquidity 213:21 list 272:16 listed 141:4 263:12 listen 155:18 219:3 literally 233:21 litigation 196:7 246:9 LLC 228:20 LN 278:16 loan 119:25 120:4 124:18 131:6 227:13 229:8 loans 131:19,21 148:18 176:24 218:6
--	--	---	---	---

Index: located..motion

located 107:11	maker 113:13 114:16 129:21	Melissa 124:24	moment 182:20	18 167:4,7 168:4,8, 10,18,25 169:8,11,21 170:8,11,13 171:4,19 172:8 174:3 175:10, 14,18,24 176:2 180:21 181:15,18 183:20 184:16 185:6 186:8 189:20 190:11 191:6,9,12,17,20 195:14,16 196:4,16, 23 197:22 199:4,22 200:5,7 201:13,20 202:6,15 203:3,15,24 204:2,6,15,22 205:4, 7,17,20 206:2,5,17, 19,21,23 207:11,13 208:5,14 209:3 210:19 211:9 213:7, 18 214:15,25 215:13, 19 216:15 218:13,14, 21 219:9,11 220:2,9, 18,21 221:6,20 222:4,8 223:2,4,20, 23 224:8 225:16,20 227:5,18 228:2,5 229:13,15,25 230:8, 18,25 232:2,5 234:4, 19,22,25 235:6 236:4,7,11,13,25 237:4,7,13,20,25 238:3,15 239:6,15, 21,23 240:3,7,14,17 241:7,16,19 242:7 243:14,17 244:12,23, 25 245:16,23 246:5, 11,15,23 247:4,8,21 248:19,25 249:7,17 250:25 251:10,19,22 252:12,14,24 253:11, 13 254:10,15,22 255:8,12 256:14,17 257:4,7,9 258:7,18, 25 259:7,13,17 261:2,5,16,18 262:24 263:3,23 264:5,8,17, 22,25 265:3,8,10 266:6,12,15,18 267:7,17 268:2,4 269:10,12,15,18 270:3,5,24 271:9,17, 20,22 272:7,12,14, 18,20 273:15,22,25 274:6,8,11,14 275:17 276:3,17 280:5	
long 129:19 204:11, 12	makers 228:6	member 173:17	moments 124:7	motion 168:20	
longer 204:9	making 149:9 198:18,20,21	members 164:15 165:17,18 174:9	monetization 176:25 177:2 182:8 211:7,22 213:4		
looked 111:25 112:3 120:5 122:22 124:6 131:11,21 132:24 133:6,24 153:20 194:8 195:11 232:23 234:9 237:17 247:15	managed 209:6,8,20 210:11,13	memorable 139:16	monetize 187:24		
lose 115:15 216:9	management 111:4, 10 115:6,20 119:2 121:23 132:18 166:6 196:3 207:3 224:13 228:12,24 234:15 235:10,22 247:5,15 257:11,15 278:6,7 280:11,16,23 281:5, 11,14,17,20,23 282:4,21	memorialize 169:4	monetized 187:21 188:11,13 190:19,22 191:2,3		
lot 135:6,15 137:10 140:23 156:7	Management's 222:18 237:15	memorialized 190:6	monetizing 213:20, 21		
lower 217:15	manner 260:20	memory 192:10	money 124:16 150:3 198:11,15 199:25		
LP 278:6,8 282:21	March 136:18 137:6	mention 218:22 242:24 243:3	month 116:19 117:19 152:11 261:9		
lunch 204:5 205:25	mark 229:7 254:25 255:4,9	mentioned 151:25 172:20 210:4	monthly 116:13,17, 19,23 117:3,9,12,16, 24 118:5,16,25 119:19 261:10,13 262:8 265:4,21,22 266:3,4 282:12,14,16		
Lynn 275:6 276:15	marked 221:21 254:25 269:21	met 188:17,22,25	months 188:20 233:12		
Lynn's 275:24	market 260:25	MGM 177:4 188:19 209:12 211:3,18 212:20 214:6,18 217:7,8	morning 107:20,21		
M	marriage 277:12	middle 259:15	Morris 107:19,22 108:14,17,24 109:2, 9,14,15,18,20 110:23,25 112:15 113:2,9,20 114:5 116:5,8,10 118:5,13, 19,22 119:7,10 120:11 121:6,9,12, 15,17 122:6,9 123:15 125:21 126:5,13,24 127:3,5,19,21 128:2, 4 130:12,15,24 131:2 132:4,9,12 134:10,20 135:17 136:6,9,11 137:25 138:20,23 139:5,18,25 140:14, 16 141:16,18 143:7, 12,16,18 145:11,18, 20,24 146:4,11,15, 20,23 151:6,12,16,19 152:22 153:2,4 154:24 155:2,15,17, 25 156:22 157:24 158:3,5,7 159:2,4,19, 22 160:21,24 161:2, 9,13,18 162:8,10,16,		
made 124:6 131:20 132:6,22 133:4 149:20 192:20 193:17 194:4,5 195:5,21 196:5 197:5,19,24 198:4 199:13 212:7 226:14 227:13 229:9 233:11 245:2 247:14 253:6, 15 256:19,25 259:4, 25 268:12 270:13,19 271:5	material 177:16 236:23 267:15	million 119:24 120:17 121:20,23 122:4 127:24 131:6 160:11 177:8 186:13 196:14 224:14 226:10 231:16 232:16 233:9,10 234:8 241:23 242:15, 16 252:6,21 253:8 257:16 259:21 267:22,23,25 268:13 269:6			
main 141:2	materiality 236:10, 14	million-dollar 120:4 131:11 232:25 233:4 234:9 259:3			
majority 148:13 164:15 165:17 173:11,24 217:17 260:9,15,19	matter 112:20 113:14,24 180:24 258:15 277:13	mind 210:23 255:4			
make 112:12 122:23 123:5 126:3 128:21 129:11,12 134:2 149:17 150:11 153:5 168:20 170:25 171:15 178:20 181:10,22 182:4 191:3 212:13 226:17 227:25 249:3 268:3 275:14	maturity 110:13	mine 173:9 217:3			
	maximizing 183:7 184:6	minute 144:2			
	means 183:22,23 264:19	minutes 149:8 196:2 204:24 205:14			
	meant 217:22	missed 183:10			
	mechanisms 273:8	missing 233:24			
	Medical 210:21	misstated 233:25			
	meet 188:19	misstates 184:23			
	meeting 152:7	mistaken 185:16			

Mountain 177:12,19 179:12 231:10,14,19, 22 254:8 267:21 268:6,7,9,11,12,18, 25 269:3,5 move 154:24 155:15 157:21 190:16 204:7 218:13 219:9 264:5 muddy 146:18 <hr/> N <hr/> Nancy 174:25 175:2, 17 176:6,22 178:13 180:5 181:20 182:24 184:18 187:12,15 190:8,12 198:23 199:17 207:18 208:10,21 211:2 212:8,15,19 213:9 214:3,16 215:15 216:3 217:25 218:17, 23,24 219:16 220:5, 12 230:4 239:2,11,18 240:10 244:2,14 245:3 267:10 273:11, 18 needed 172:19 173:4 197:18 241:11 negotiation 144:22 178:20 negotiations 148:25 154:13 155:12 net 187:5 Nexpoint 228:16 Non-operating 270:7 Nonindividuals 282:7,10 normal 183:22 NORTHERN 278:4 notarize 192:6 notarized 192:2 206:12,14 notary 161:22 162:13 277:4,18 279:14 note 107:5 108:19,20	110:5,9,12,13,20 111:3,20,23 112:5,9, 21 113:13,14,22,24 114:22 115:4 120:6, 13,16,19 121:18 122:3,11,14 123:3,17 124:13 125:14 127:23 128:7,10,12, 14,25 129:7,15,21 130:9 165:13 191:4 193:24 194:2,16,19 195:5 197:19 200:9, 20 226:11 231:15 232:9,25 233:5,8,24, 25 234:9 241:12 280:9,13,14 Noted 276:22 notes 121:3 122:15, 21 123:9,20,21 124:5,9,19 125:2 129:4,5,8,25 131:11 132:6,24 133:6,24 135:8,22 138:11 140:22 141:24 142:6, 20,24 143:3,15,17,24 144:3,11,17,24 145:5 147:4,24 148:9,11,22 149:4,16,19 150:8, 14,19,25 153:21 154:8,14,18 155:5, 13,22 156:10,16 157:2,4,16 160:10,16 163:6,20 165:24 172:25 180:6 181:11, 24 182:7 184:19 186:22 187:18 188:10 190:20 192:23 193:16,18,25 194:8,11,14 195:20, 22 196:5,13,14,25 197:5,12 198:6,13,22 199:7,13 200:24 201:9,24 202:8,21 203:11,19 212:23 213:5,6,13,24 214:8, 21 218:11 219:7,18 223:7,12,25 224:2, 12,18 225:23 226:9, 14,15,19,22 228:7 232:15,22 233:11 238:10,19 240:18,23, 24 241:21 242:2,9,14 243:4,8,10 246:6 251:25 252:4,20 253:6,23 254:5	257:21 259:9 263:17 264:10 266:24,25 267:6,11,19,23 268:8,12,24 269:7 270:13 271:5 272:24 273:7 274:20,21 275:8,12,14 notifying 275:15 notwithstanding 210:24 November 265:5 272:21 now--and 137:12 number 108:6 118:20 126:25 157:25 159:20,24 160:6,22 191:7 192:19 196:24 197:10 200:3,6,13,21 206:3 223:21 234:10 235:3 251:25 253:17 256:18 numbering 255:6 numerous 194:14 <hr/> O <hr/> object 112:10,23 113:5,25 118:8 120:7 123:12 125:17,25 126:11,20 131:25 134:8,17 135:2 151:3 152:18 155:6 156:19 170:23 171:11 173:21 183:15 184:8, 22 185:25 189:17 195:8,23 196:8 197:8,13,15 198:25 199:18 201:12,15 202:2,10,22 203:12, 21 208:2,11,23 210:15 212:25 213:14 214:9,22 216:11 218:18,25 219:21 220:6,13,25 224:5 227:2,15 229:22 230:5,15,22 233:13 238:13 239:3, 12,19 240:11 241:2 242:4 244:6 245:7 248:15,23 249:5,14 250:23 251:7 252:22	254:6,12 257:23 263:20 267:3,13 269:8 270:20 273:12, 19 275:4,22 276:13 objected 275:25 objecting 189:2 objection 113:16 118:8 155:23 167:5 171:24 258:9,13 objections 118:12 158:12 161:4,25 191:14 207:2 217:14 280:22 281:4,10,13 obligated 187:17 obligation 126:18 185:22 obligations 212:22 213:12 214:7,21 obtained 115:5 occurred 154:8 244:3 occurs 182:17 October 247:24 offer 150:2,11 offered 149:17 offers 156:14 Officer 261:23 offset 187:9 Okada 228:10 229:8, 9 omitted 255:5,6,9 Omnimax 210:21 one- 246:18 one-way 246:9 open-ended 181:6,7 operated 155:11 165:23 operating 117:3,9, 13,16,24 118:5,16,25 119:3,12 130:21 154:21 261:10,13 262:8 265:4,21,22 266:4 280:11,17	282:13,15,17 operations 156:14 opine 153:13 166:20 opinion 112:18 113:8 opportunity 249:12 oral 107:3 187:23 242:24 order 107:7 211:19 213:11 251:5 ordinary 116:12 organizational 256:8 original 136:13 137:8,15 164:19 171:9,22 172:13 280:20 outcome 277:12 outstanding 132:23 160:2,6 177:17 184:20 226:8 253:7 overlaid 144:24 overpayments 135:9 owned 209:6,12,13, 14 210:11 217:10 228:9,14,18,21 229:2 ownerships 209:17 owns 259:4 <hr/> P <hr/> p.m. 276:22 Pachulski 107:23 Pachulski's 248:9 Package 116:14 PAGE/LINE 280:8 281:3 282:3 pages 280:9,12,13, 15,17,19,21,24 281:6,8,12,15,19,21, 25 282:5,7,11,13,15, 17,20,22
--	--	---	--	---

Index: paid..promissory

paid 111:16 159:25 160:9,15 194:23 257:14 259:21	189:13 195:19 259:25 269:3,5	248:7 253:6 270:11 272:8	points 141:2 217:12	Pricewaterhouseco
paper 190:5	payable 123:10 191:4 226:10	perspective 144:21 185:8 186:15	portfolio 209:5,19 210:5,10	opers 220:23 232:14 237:10
paragraph 110:16, 19 114:6,10,13 122:7,10 128:3,5 138:7 141:20 143:9 151:22 152:16 153:9 163:3 165:22 170:15 171:22 173:7 174:11, 17 176:7,16,23 179:9,19 180:2,8,12, 17,25 181:9,20 183:6 185:21 186:17 187:12,15 190:5 200:16 225:17 226:24 228:17 229:6, 7,14 231:2 236:8 241:17	payables 268:17	pertain 246:5	portion 192:21 198:4 215:20 245:17	Pricewaterhouseco
parse 148:5	paydowns 242:21	pertained 135:20 211:2	portions 108:10 129:24	opers' 227:11
parsing 164:22	payee 114:15 128:17	pertaining 156:16	position 143:21	Pricewaterhouseco
part 138:16 144:3 149:20 152:2,6,8 173:19 184:10,17,25 198:9 208:9 216:2,17 251:23	paying 185:15 186:21 194:19	pertains 155:21 242:23 251:24	possibilities 217:23	opers's 232:7
participants 214:13	payment 130:3 133:5 134:2,23 135:20 140:22 149:18 154:17 181:23 192:20 194:5 197:9,14 198:4,20,21 199:12,24 259:4 268:23 270:18 274:22	petition 143:13 215:10,11,12 260:6, 18 271:2	post-bankruptcy 116:2 145:9 153:17 164:24 181:14	principal 111:13 123:20 124:8,13,18 128:16 129:9 132:23 133:5,23 134:23 135:21 149:3,18 150:13 181:23 182:4 184:21 186:22 187:18 188:9 189:13, 14 192:22 193:13,24 194:5 195:20 197:10, 19 198:5,12 199:12 226:8 271:4
participate 178:3	payments 193:15,17 194:4 226:18 256:19, 24 257:19,20 259:8 270:12 271:4	Pg 278:16	POT 142:22 144:3,4, 12 147:2 149:14,21	principle 198:21 242:20 270:12
participated 155:11 178:11	peck 193:18	phrase 153:10 216:17	potential 189:5	prior 134:15,24 150:10 166:8 170:2, 17 173:14 180:15,25 184:23 194:12 226:13,19 235:4 239:8 260:5,17 274:3
parties 156:25 249:12 277:11	penned 275:13	phraseology 167:25	powerful 276:6	private 210:17
partly 218:9	people 130:17 135:7, 14 145:23 275:15	physically 117:20	practice 130:16 260:13,15	problem 145:8 151:12
partner 119:25 120:4 131:6,17,19 235:13	percent 194:24 217:11 233:22	piece 217:5	pre-bankruptcy 153:16 164:23	Procedure 277:9
Partners 228:20	perfectly 166:22	pin 172:22	prebankruptcy 116:3 164:6,14	proceed 258:23
partnership 148:15 225:23 231:16 241:22	period 148:10,23 174:22 181:4 221:16 223:6 224:11 225:11 237:6 238:5 239:9 243:22 244:21 265:5	place 146:7 154:5 176:24 190:20	precedent 188:19	proceeding 134:16 137:9 258:3,17 261:7
parts 183:3	periodic 193:14,16	places 209:13,14	prefer 118:11	proceedings 248:14
party 178:15 265:16 266:2 277:10	permitted 177:16	plaintiff 141:23,24 142:5,6,18,19 143:2, 23 144:10,11,16 145:5 147:3,23 163:5,20 278:9	preparation 238:23	process 152:8 198:9 216:14,16 219:6
passed 189:14	person 117:8 123:2 145:3 199:24 203:5, 16 248:10 255:24 256:6,9	plaintiff's 141:22	prepare 116:12 236:20 251:5	production 215:14
pay 111:3,15 128:15 129:6 133:22 185:23 187:8,17 188:8	period 148:10,23 174:22 181:4 221:16 223:6 224:11 225:11 237:6 238:5 239:9 243:22 244:21 265:5	plan 142:22 144:3,4, 12 147:2 149:14,21 271:13	prepared 116:20 118:16 205:9 221:9 222:2 224:10 256:7 258:2,22 271:14	Projections 282:19, 22
	personal 207:7	plan 142:22 144:3,4, 12 147:2 149:14,21 271:13	preparer 265:17,20	promised 111:3
	personally 116:18 127:10 131:16 136:20 163:10 168:24 171:20 196:11 234:15 238:22 240:22 241:5	pleading 143:6	preparing 116:23 117:3,9,15 198:9 250:15 255:21	promissory 108:19 110:5 111:19,23 113:13 120:6,13,16, 19 121:3,18 122:3 123:17,21 125:14 127:23 133:24
		pleasure 276:19	president 248:4	
		plenty 260:23	pretty 201:18 222:21 246:15	
		point 164:9 189:25 194:6 198:16 215:5,7 234:24 246:20 250:19 264:15	previously 141:23	
		pointed 175:22	price 217:15	
		pointing 200:14	Pricewaterhouse 222:11 233:21	

Index: proper..repeat

153:20,21 180:6 181:10 225:23 226:9 232:15 241:21 257:21 259:9 280:9, 13,14 proper 123:23 properly 172:18 proposal 142:22 149:20 prospects 217:8 provide 184:2 236:20 provided 179:6 providing 224:17 provision 114:14 200:24 201:9,24 202:8,20 203:10,19 provisions 114:13 274:22 public 161:22 277:4, 18 279:14 pull 269:24 Purported 162:20,25 163:11,21 purpose 117:15 249:10 purposes 236:15 255:2 pursuant 157:15 219:17 277:8 put 108:14 118:19 121:6 132:9 136:6 148:21 157:24 193:23 198:15 200:18 206:2 216:25 275:8 putting 133:20 221:14 PWC 221:24 223:25 224:11,18 236:20 238:23 239:7,17 240:9,23 247:14,22	144:6 147:9 155:10 157:3 172:17 199:10 question 114:18 118:9 122:19 129:22 133:12 134:12 135:5 138:24 143:2 144:21 148:6 151:9 153:3 154:25 155:19,20 156:6 157:10 160:15 164:8 166:12,24 167:3 168:16 171:18 178:9 179:16 189:9 190:3 193:9 201:18 202:4,17 208:4 214:14 224:15 227:8 239:24 241:4,6,9 242:8 244:10 260:8 267:10 276:7,8,9 questions 126:7 127:9 145:10 159:8 163:7 193:6 205:12 258:23 259:2 276:18 quickly 204:7 quote 141:21 163:5, 19 165:10 170:18 172:14 209:5 211:11 215:22 216:23 236:14 272:24 274:19	227:9 264:15 278:16 reading 236:17 257:16 Reads 278:16 realization 186:18 realized 186:6 268:15 275:12 reason 186:25 192:7 193:7 198:15 206:13 220:16 242:21 260:23 262:21 263:15 278:12,16 recall 115:8,13,16 117:25 118:14,17 132:21 133:17 135:13 137:16 140:17 150:16 152:11 169:25 177:13 178:12 179:6, 16,20 191:21 197:4 220:15 226:14,16,20 227:10 230:2 239:5 261:14 265:19,25 270:25 271:12 274:2 Receipts 270:7 receivable 231:15 252:2,5 253:6 254:5, 18 264:10 receive 109:24 121:22 182:2 received 110:6 257:20 recently 138:8 recess 151:18 205:25 recollection 119:4 131:14 133:2 139:7 141:10 153:7,16 188:15 194:18 208:25 210:25 220:3 221:24 225:9 226:3,6 227:19,20,21 232:6, 20 242:13 244:2 recommendation 248:9 recommendations 217:21	record 146:18 205:3, 24 245:7 275:8 277:7 278:13 recorded 120:13 records 195:11 recover 267:11 redacted 223:7 245:10,22 Redeemer 115:4 reduce 186:4,6,7,10 192:22 193:24 198:5, 11 reduces 182:8,15,18 184:14 refer 115:19,25 209:11,23 reference 131:5 162:20 209:4 211:10 229:16 236:9 241:20 245:2 251:25 256:19 referenced 242:17 referred 114:8 119:25 131:16 143:8 151:21 152:15 163:19 164:11 173:7, 11 174:10,17 176:6, 15,23 179:9,25 180:7,12,16,24 181:8,20 183:6 185:21 186:17 187:12,15 197:9 218:2 228:7 255:15 referring 145:8 146:8 151:21 154:9 166:3 refers 120:4 131:10 147:16 163:2 165:22 200:16 215:21 225:18 231:2 232:9 252:8 264:19 reflect 169:4 179:25 254:4,17 reflected 113:22 151:22 153:9 223:15 233:23 240:23 269:7 refresh 141:10 221:23 226:20,21 232:6	refreshed 136:4 150:15 231:8 258:4 refuse 234:2 refused 260:19 regard 128:20 194:24 relate 172:13 related 154:8 156:25 171:21 277:11 relates 229:7 relating 142:12 224:18 236:22 241:17 249:13 relative 177:17 212:9 relevant 179:12 205:12 relieve 185:14,22 relieved 186:21 rely 250:20 251:4 relying 276:9 remain 224:24 remember 117:21, 22 133:7 136:3 137:5 138:7,16,17 140:20, 23 159:8,15 173:25 176:21 179:22 180:13 184:24 193:19 210:9 219:4, 23,24 221:4 226:17 227:23 230:7 231:9 233:2,6 272:4 remind 108:5 REMOTE 107:3 remotely 107:6 rendered 273:18 rep 247:15 repay 111:9,13 repayment 149:3 150:12 repeat 134:19 144:13 150:20 171:17 185:17 195:25 208:4 214:12 241:4 244:10 256:3
<hr/>				
Q				
<hr/>				
quarter 143:10,22				

Index: rephrase..smoothly

rephrase 153:3 164:8	respective 124:7	scenario 188:7 190:24	serving 230:3	120:16 121:2 123:2, 3,17 125:5,6,7,15,16 127:14 128:11,15,24 129:21,25 130:2 131:12 132:17 162:12 165:4 194:9, 11 206:24 222:12 235:19 237:11 261:22 263:8
replaced 215:7	respond 134:6,14,22	schedules 249:24 250:2,4 251:6 254:3, 17 261:8	set 148:16 161:6 207:3,22,23 208:7 219:19 254:18 260:14 277:6,14 281:6,15	significant 119:13, 19 131:3 186:11,12
report 117:7 118:3, 16,25 225:22 232:13 244:22 261:10 265:4, 23 266:4 282:13,15, 17	response 134:3 160:8 161:5 177:6 193:10 207:22 242:6	Schroth 124:24	settlement 142:23 148:23,25 149:14 151:2 154:16 156:14 157:5	signing 110:19
reported 117:5 255:25 256:11 266:19,24	responses 158:12 191:14 192:3,6 280:22 281:10	scope 258:5,9,14	shared 135:8,11	signs 125:3
REPORTER 107:5 145:22 196:22 205:2, 5,23 244:8	responsibility 119:18 222:18 237:16	Scott 215:3 229:19 230:4	Sharp 261:22 262:7, 14 265:15 266:2	similar 120:10 186:13,21
Reporting 116:14 277:19	responsible 116:22 117:2,9 199:25 224:17 250:14 255:20 265:15 266:2	screen 163:17 175:9, 22 176:10 200:18 221:14 271:18	Sharp's 265:11	simple 129:22 138:24
Reports 117:3,10,13, 16,24 118:6 261:13 262:8 265:21	rest 129:15 204:13	scroll 132:16 136:10, 16 137:19 139:3 158:5,17,19,21 160:25 161:12 169:16,18 170:11 191:9,17 206:17 222:4 225:16 227:6 235:4 236:11 237:13 257:7 261:16 265:8 272:18	sheet 119:4,14,21 120:14,19 131:4 177:3 223:6,13 238:5,9,18 255:5 278:2	simply 200:19
representation 234:15 235:11 247:6 281:21 282:4	Restoration 217:18	scrolling 121:11 122:8 138:3 139:13 140:5,7,12 158:23 159:21 161:17 169:20 170:10 191:11,19 223:22 232:4 236:6 240:16 243:16 256:16 257:6 263:2 266:8 269:17	shifted 275:13	simultaneous 139:17,24 145:13,17, 21 152:24 168:9 175:8,23 190:9 244:4 258:20
representations 236:15 247:14	restrain 258:15	Seery 132:17 148:20 149:14	short 129:18 204:18	sir 109:3,16 118:23 121:13 127:6 140:18 159:6 161:19 162:23 166:13,23 169:23 189:9 190:3 195:4 196:22 199:8,15 206:10 234:5 235:8 240:21 264:18 271:10 276:7
representing 165:19 220:11	Restructuring 261:23	seal 245:25	shorter 205:10	sister 174:25 176:5 178:5 189:22 229:19 238:25
request 124:19 159:20,23 191:15 192:18 197:10 200:2, 21 201:4,22 215:18 280:24 281:11	Results 119:3,12 130:21 280:11,17	section 228:8	show 215:14 223:7 244:19 245:20 253:12	sit 125:22 137:12 193:8 204:9
requests 158:13 192:4,10	return 182:3	sentence 114:7,9 165:8 166:13,24 167:8,15 169:2 224:15 236:9 264:14, 16	showed 245:19	skip 254:23
required 227:22 262:15	review 116:18 249:12 250:3 255:17 261:12 272:8	serve 159:17 192:15 220:23	shown 176:11	skipped 282:8
requisite 173:24	reviewed 113:19 141:11	served 158:8 170:2 171:10 191:22 192:11 200:22 221:24 229:20	shows 252:19 253:22 270:10	Skur 277:4,18
resembles 235:17	reviewing 192:10	services 135:8,11 228:25	shut 168:19	slightly 113:11 160:14 202:17
Reserve 276:20	right-hand 274:9		side 133:21	slow 137:21,23
reserved 277:9	room 260:24		sign 110:4 121:18 122:2 124:25 127:8, 10,15,23 130:3,16,17 161:21 194:15 234:15 235:10 262:7	small 193:12 194:5 213:25
resolution 135:10	roughly 233:9		signature 108:25 109:3,16 121:10,13 127:4,6,13 161:19 206:10 235:7,16 247:11 262:2 277:9	smoothly 156:7
resolutions 179:24 180:3	Rule 277:8		signatures 235:5 261:20 265:12	
resolve 150:4	Rules 277:9		signed 109:21 110:17 111:8,12,20 113:21 114:22 115:3	
respect 113:23 118:15 155:5 166:23 173:6 270:13	<hr/> S <hr/>			
	sale 188:19 211:25 213:11			
	sampling 233:22			
	satisfied 189:16			
	satisfy 226:18			
	Savings 107:11			

Sofas 255:15,18,21 256:7 261:8	statement 129:13 147:8 165:14,15 193:3 202:25 222:17 237:15 249:19 271:14 282:9	subjects 214:12	swear 162:4	thing 140:10
sold 212:6,21 213:3 214:5,17 217:14,20 275:11,15	statements 168:13 221:9,15 222:2,19,23 223:25 224:10 227:12 233:18,19 236:21 237:17,23 238:24 239:9 243:22 245:9,15 246:3 255:14 263:19 281:18,23	submit 245:24	swore 166:16	things 139:16 171:2, 5,8 172:20 183:25 234:24 245:11 264:15
sole 229:20 230:13	STATES 278:3	submitted 171:6	sworn 107:14 149:5 168:12 277:7 279:11	thinking 174:2
someplace 205:19	stay 190:20 255:7	SUBSCRIBED 279:11	T	thought 152:20 182:23 193:25 216:14,16 219:6 240:5
sort 137:23	step 109:10	subsequent 142:13 143:5 144:23 148:8, 17 152:3,4 153:11 155:9 165:12 170:19 172:15,16 176:8 181:5 182:22 188:17, 22,24 189:15 199:5,9 207:16,24 208:8,22 211:8,20 212:3 216:20,22 218:2 219:19 232:10 243:12,18 244:20 267:9 268:14	taking 146:7	threw 150:3
sought 179:2	stick 156:3 166:19	subsequently 142:8 152:16 153:10 194:20	talk 152:2	tie 182:21 253:3
source 235:21	stipulated 110:15	subsidiary 209:15	talked 176:12	time 107:10,11 108:9 110:17 111:7,12 113:10,21 114:3,22, 25 115:3,13 123:3 124:7,22,23 125:15 128:10,14,23 129:6 130:6 132:5 134:15, 19,24 135:24 144:22 145:23 149:24 150:10,21 164:16 165:12 168:19 170:2 171:6,9,22 173:3 174:22 178:23 180:15,25 181:4 182:15 185:18 187:23 188:3,5 189:25 190:13,15 194:12 198:16 204:4, 20,21 205:7,8,21 206:24 215:8 217:13, 25 220:4,11 229:21 230:2,20 232:19 238:16 241:10 246:14,25 248:3 250:12,17 256:4,9 260:17 262:6 272:2 274:2 276:22
speak 180:14	stop 119:9 138:6 139:18,19,25 140:2 145:11,12 146:16 168:10,11,13,21 246:7,22 265:2	substance 140:19 154:12 207:12	talking 116:3 118:6 139:19,20,25 140:2 143:4 147:6 163:14, 15 172:3 175:12 177:7 181:13 207:17 210:9 219:4	timelines 250:9
speaking 118:12,14	stopped 221:12	success 217:7	target 187:4	times 108:3 194:3 221:3
speaks 114:19 171:14	story 217:7	sued 112:5	tax 193:14	timing 115:9
specific 142:16 198:14 203:2,7 211:23 276:16	straight 214:13	suggest 120:23 180:14 195:3	taxable 187:7 194:22	title 108:19 119:24 136:10
specifically 118:3 132:8 135:13,23 137:5,10 158:10 159:15 174:14 197:25 209:24 214:4 261:11	Strand 235:12	suggested 144:4,5 155:13	taxes 187:8 194:19, 23	titled 150:2
specifics 218:5,20 219:4	straying 257:23 269:13	Suite 277:20	team 250:21 251:5	today 107:24 108:6 111:23 112:9,21 115:20 122:12 125:22 126:10 128:8
speech 144:18	Street 277:20	sum 111:4	telling 220:4 265:19, 25	
speed 137:21	strike 154:25 155:16 218:13 219:10 264:5	summary 250:6,15 251:15 282:6	ten-minute 151:10	
spent 173:3 271:25	strikes 140:21	supersede 114:14	tendered 161:4 234:10	
sphere 262:10	structure 129:6 218:11 256:8	Supplemental 221:16 281:18,24	term 110:9,14 128:5, 20 226:11,15 274:20	
split 135:9	structured 129:2 218:11	supported 128:8	terms 111:17,18 113:23 114:13 128:12 130:3,9 182:7 193:13 226:18	
spoke 179:13 180:23	stuff 125:4 139:23 165:4	support 217:15	testified 107:16 129:3 133:16	
standard 222:21 235:24	subject 113:24 178:19 180:7,23 196:7 207:16,25 218:2 219:18 229:5 257:24 275:9	supposed 159:14 249:18,21	testify 129:3	
start 147:14 148:3 228:4,11		surrender 181:9 182:3	testimony 144:2 148:24 149:5 150:9, 17,22 152:13 153:12 154:11 166:19 184:23 198:10 277:7	
started 166:7 195:13		surrendered 181:22	Texas 107:12 277:2, 5,18 278:4	
starting 144:5			theoretically 182:17 217:20	
state 107:8 163:9 243:10 258:8,13 264:13 277:2,5,18				
stated 153:17 163:24 167:18,19 173:5 207:7 234:8				

137:18 188:23,25 269:5 Today's 107:9 told 147:2 177:8,9 185:10 219:14 239:7 top 109:19 110:24 121:15 127:19 136:16 162:9 222:16 228:11 237:14 250:9 253:12 total 226:7 transactions 233:22 236:22 TRANSCRIPT 278:2 transcription 278:14 transfer 124:8 transparent 249:19 transparently 262:19 trial 141:2 149:25 157:23 276:21 trigger 211:19,24 212:2 213:4 triggered 189:5 triggers 139:6 true 137:17 162:5 163:24 165:6 166:17, 18,24 167:8,15 193:3 199:3 202:25 206:20 207:8 230:19 232:18 270:25 277:7 Trussway 177:5 189:4 209:14 211:3, 19 212:21 214:6,18 trust 215:4,16 229:17 230:4,10,14,20 231:6,11,14,19,22 trustee 174:18,19,21 215:3,7,15 229:20 230:3 truth 107:15,16 TSG 277:19 turn 243:14 251:19 252:12	two-hour 246:19 typical 127:13 <hr/> U <hr/> Uh-huh 162:22 215:25 221:19 223:10 ultimately 117:5 185:4 uncollectible 253:18,24 254:5,18 unconditional 122:20 understand 107:25 110:18 111:24 112:9, 22 113:15 118:10 123:4,8 125:14,24 126:10,16,18 130:3 133:3 139:5 142:11 166:4 176:17 185:8 186:15 212:14 213:9 214:3 236:19 243:21 245:22 248:13 249:2, 10 270:9,16 understanding 110:12 120:3 122:12 123:2 130:6 131:9 133:15 136:23 151:5 154:21 181:21 208:8 235:18 264:11,18 267:16 understood 128:23 129:9,21 undue 189:13 unencumbered 275:10 unequal 233:25 UNITED 278:3 unnecessary 216:5 217:4 unpaid 128:16 129:9 133:5,23 134:23 135:21 149:3 181:23 182:4 184:21 187:17 188:9 189:14 unreasonable 273:5,18 275:3	276:12 unredacted 245:11, 13,14,21,24 <hr/> V <hr/> validation 235:22 variety 209:13,14 variously 115:20 vehemently 189:2 275:25 verbal 154:4,7 156:9, 10,17 verbally 154:3 Verification 162:12 206:8,20 verified 165:5 166:25 167:9 version 170:17 265:14 versus 110:14 164:6 video 108:8 view 174:5 views 178:23 <hr/> W <hr/> wanted 187:4 245:12,20 260:21 274:11 warning 266:10 Waterhouse 117:2, 24 217:24 218:15,24 219:15 224:23,24 225:5,9 235:15 250:14,20 251:4,12 255:25 256:10,11 262:2,7,14 265:16,20 Waterhouse's 265:12 ways 268:8 week 138:8 WHEREOF 277:13 wholly 215:22	216:24 wistful 264:2 withdrawn 114:19 115:18 117:14 122:18 125:12 128:22 131:15 134:11 150:22 171:7 176:4 181:17 187:13 209:21 212:18 216:18,20 230:12 233:3 241:8 243:20 251:2 256:22 word 167:11 175:18, 19 183:11,12 words 109:10 142:12 170:18,22 172:14 183:19 wordsmith 167:13 work 149:13 wrap 205:14 write 145:23 166:15 190:4 writing 153:24 154:20 written 129:5 156:8 157:20 166:22 193:3 254:9 wrong 147:12 149:7 164:5 166:14 185:14 233:15 269:20 wrote 165:9,10 268:21 275:6 <hr/> X <hr/> X----- 280:2 <hr/> Y <hr/> year 121:2 144:7,8 149:10,11,13 184:13 222:2 225:24 253:19 256:20,25 259:22 272:25 274:20 year-end 221:8 years 210:6 225:7	York 277:20 Yup 238:21 256:21 257:13 261:24 <hr/> Z <hr/> Zoom 108:8
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EXHIBIT 97

Dondero - 6-1-2021

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In Re:)
)
HIGHLAND CAPITAL) Case No.
MANAGEMENT, LP,) 19-34054 L.P.
) Chapter 11
Debtor,)
-----)
HIGHLAND CAPITAL MANAGEMENT,)
LP,)
)
Plaintiff,) Adversary No.
) 21-03003-sgi
vs.)
)
JAMES D. DONDERO,)
)
Defendant.)

REMOTE DEPOSITION OF
JAMES DONDERO

Volume 3

Pages 283 - 385

Dallas, Texas

Tuesday, 1st day of June, 2021

Reported by:

Daniel J. Skur, Notary Public and CSR

Job No. 194691

<p>1 Dondero - 6-1-2021</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7 1st day of June, 2021</p> <p>8 9:34 a.m. - 12:01 p.m.</p> <p>9</p> <p>10</p> <p>11 Remote Deposition of JAMES DONDERO,</p> <p>12 located in Dallas, Texas before Daniel J.</p> <p>13 Skur, Notary Public and Certified Shorthand</p> <p>14 Reporter in and for the State of Texas</p> <p>15 located in Waxahachie, Texas.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 284</p> <p>1 Dondero - 6-1-2021</p> <p>2 REMOTE APPEARANCES:</p> <p>3 Pachulski Stang Ziehl & Jones</p> <p>4 Attorney(s) for Debtor</p> <p>5 780 Third Avenue</p> <p>6 New York, New York 10017</p> <p>7 BY: John Morris, Esq.</p> <p>8 Gregory Demo, Esq.</p> <p>9</p> <p>10 Sidley Austin</p> <p>11 Attorney(s) for The Committee</p> <p>12 2021 McKinney Avenue</p> <p>13 Dallas, Texas 75201</p> <p>14 BY: Paige Montgomery, Esq.</p> <p>15 Juliana Hoffman, Esq.</p> <p>16 Matthew Clemente, Esq.</p> <p>17 Alyssa Russell, Esq.</p> <p>18</p> <p>19 Kelly Hart & Pitre</p> <p>20 Attorney(s) for Mark Patrick</p> <p>21 400 Poydras Street</p> <p>22 New Orleans, Louisiana 70130</p> <p>23 BY: Amelia Hurt, Esq.</p> <p>24</p> <p>25 Bonds Ellis Eppich Schafer Jones</p> <p>26 Attorney(s) for The Witness</p> <p>27 420 Throckmorton Street</p> <p>28 Fort Worth, Texas 76102</p> <p>29 BY: Clay Taylor, Esq.</p> <p>30</p>
<p>1 Dondero - 6-1-2021</p> <p>2</p> <p>3 REMOTE APPEARANCES (continued)</p> <p>4 Sbaiti & Company</p> <p>5 Attorney(s) for Charitable DAF, CLO HoldCo</p> <p>6 and Sbaiti & Company</p> <p>7 2200 Ross Avenue</p> <p>8</p> <p>9 Dallas, Texas 75201</p> <p>10</p> <p>11 BY: Mazin Sbaiti, Esq.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 286</p> <p>1 Dondero - 6-1-2021</p> <p>2 IT IS HEREBY STIPULATED AND AGREED</p> <p>3 by and between the attorneys for the respective</p> <p>4 parties herein, that filing and sealing be and</p> <p>5 the same are hereby waived.</p> <p>6 IT IS FURTHER STIPULATED AND AGREED</p> <p>7 that all objections, except as to the form of</p> <p>8 the question, shall be reserved to the</p> <p>9 time of the trial.</p> <p>10 IT IS FURTHER STIPULATED AND AGREED</p> <p>11 that the within deposition may be sworn to and</p> <p>12 signed before any officer authorized to</p> <p>13 administer an oath, with the same force and</p> <p>14 effect as if signed and sworn to before the</p> <p>15 Court.</p> <p>16 - oOo -</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
	<p>Page 287</p>

<p style="text-align: right;">Page 288</p> <p>1 Dondero - 6-1-2021</p> <p>2 PROCEEDINGS</p> <p>3 REMOTE ORAL DEPOSITION OF</p> <p>4 JAMES DONDERO</p> <p>5 (REPORTER NOTE: This deposition is</p> <p>6 being conducted remotely in accordance with</p> <p>7 the Current Emergency Order regarding the</p> <p>8 COVID-19 State of Disaster.</p> <p>9 Today's date is the 1st day of</p> <p>10 June, 2021. The time is 9:34 a.m. Daylight</p> <p>11 Savings Time. The witness is located in</p> <p>12 Dallas, Texas.)</p> <p>13 JAMES DONDERO,</p> <p>14 having been duly cautioned and sworn to tell</p> <p>15 the truth, the whole truth and nothing but the</p> <p>16 truth, testified as follows:</p> <p>17 (9:33 A.M.)</p> <p>18 EXAMINATION</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Good morning, Mr. Dondero. Can you</p> <p>21 hear me?</p> <p>22 A. Yes.</p> <p>23 Q. Your microphone is a little soft as</p> <p>24 well.</p> <p>25 Can you tell me where you're located</p>	<p style="text-align: right;">Page 289</p> <p>1 Dondero - 6-1-2021</p> <p>2 right now?</p> <p>3 A. 4940 Chase Tower.</p> <p>4 (Interruption by reporter.)</p> <p>5 (Pause.)</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Good morning, Mr. Dondero.</p> <p>8 (Audio distortion.)</p> <p>9 (Interruption by reporter.) 00:01</p> <p>10 BY MR. MORRIS: 00:01</p> <p>11 Q. Good morning, Mr. Dondero.</p> <p>12 Can you hear me now?</p> <p>13 A. Yes.</p> <p>14 Q. You understand we're here today for</p> <p>15 your deposition in connection with next week's</p> <p>16 contempt proceeding; is that right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. We have a few documents to</p> <p>19 put up on the screen today; and as usual, if</p> <p>20 there's anything that you need to see, will you</p> <p>21 let me know that?</p> <p>22 A. Yes.</p> <p>23 Q. All right. I want to start with</p> <p>24 some background.</p> <p>25 MR. MORRIS: Can we please put up</p>
<p style="text-align: right;">Page 290</p> <p>1 Dondero - 6-1-2021</p> <p>2 the first exhibit, the organizational</p> <p>3 chart?</p> <p>4 MR. TAYLOR: John, before we start,</p> <p>5 I just wanted to note that this is going to</p> <p>6 be limited to two hours.</p> <p>7 MR. MORRIS: I'm not sure where you</p> <p>8 get that from, but let's just proceed.</p> <p>9 MR. TAYLOR: You specifically asked</p> <p>10 for two hours of time, and I told you we'd</p> <p>11 give two hours of time, and so we're</p> <p>12 limiting it to two hours.</p> <p>13 MR. MORRIS: You do whatever you</p> <p>14 need to do, Clay.</p> <p>15 (Exhibit 1 introduced.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Mr. Dondero, have you seen this</p> <p>18 document before, sir?</p> <p>19 A. Yes.</p> <p>20 Q. Do you know what it is?</p> <p>21 A. It's the org chart of the DAF and</p> <p>22 CLO HoldCo.</p> <p>23 Q. Do you know why this structure was</p> <p>24 set up the way it was?</p> <p>25 MR. TAYLOR: Objection, form.</p>	<p style="text-align: right;">Page 291</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. Only generally.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Can you tell me your general</p> <p>5 understanding of why this structure was set up</p> <p>6 the way it was?</p> <p>7 A. To be compliant for tax purposes.</p> <p>8 Q. Was this structure set up at your</p> <p>9 request?</p> <p>10 MR. TAYLOR: Objection, form.</p> <p>11 A. Set up at my request. No.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Who decided to set up this</p> <p>14 structure; do you know?</p> <p>15 A. Mark Patrick.</p> <p>16 Q. And do you know if anybody asked</p> <p>17 Mark Patrick to set up this structure?</p> <p>18 A. The -- he was tasked with setting up</p> <p>19 a charitable entity for Highland at that time,</p> <p>20 for Highland and my -- for Highland and the</p> <p>21 partners to -- to foster charitable giving and</p> <p>22 provide the appropriate tax deductions for</p> <p>23 such.</p> <p>24 Q. And who gave him that task, if you</p> <p>25 know?</p>

<p style="text-align: right;">Page 292</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. I believe I did.</p> <p>3 Q. Okay. So, you tasked Mr. Patrick</p> <p>4 with setting up an organizational structure to</p> <p>5 carry out the charitable giving on behalf of</p> <p>6 Highland Capital Management, L.P., and its</p> <p>7 partners?</p> <p>8 Do I have that right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Looking at the top line, do</p> <p>11 you see that there's four foundations that are</p> <p>12 identified as third parties?</p> <p>13 A. Yes.</p> <p>14 Q. Are you familiar with those</p> <p>15 foundations?</p> <p>16 A. Yes.</p> <p>17 Q. And do you serve as an officer or</p> <p>18 director of any of those foundations?</p> <p>19 A. I – I believe I have or I could be</p> <p>20 with regard to Dallas Foundation, but I'm not</p> <p>21 certain.</p> <p>22 Q. Okay. Do you know if you have any</p> <p>23 role with any of the other three foundations</p> <p>24 that are on there?</p> <p>25 A. I do not believe so.</p>	<p style="text-align: right;">Page 293</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Okay. Looking at the next row,</p> <p>3 there's four incorporated or there's four</p> <p>4 entities that are identified as supporting</p> <p>5 organizations.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have an understanding of what</p> <p>9 a "supporting organization" is?</p> <p>10 A. No, and I don't know the difference</p> <p>11 between that first line and the second line,</p> <p>12 and I don't know if my involvement with Dallas</p> <p>13 Foundation was at the first line or the second</p> <p>14 line.</p> <p>15 Q. Do you know when Mr. Patrick set up</p> <p>16 this structure?</p> <p>17 A. Many years ago at the beginning of</p> <p>18 the – I don't think it's changed over the</p> <p>19 years. As far as I know, the general – or</p> <p>20 this – this structure was put in place at the</p> <p>21 beginning, I believe, sometime in the late</p> <p>22 2000s.</p> <p>23 Q. Do you know what the Donor Advised</p> <p>24 Funds are, the DAF funds?</p> <p>25 MR. SBAITl: I'm going to object to</p>
<p style="text-align: right;">Page 294</p> <p>1 Dondero - 6-1-2021</p> <p>2 the form of the question.</p> <p>3 John, if you could be clear as to</p> <p>4 which line – are you talking about</p> <p>5 charitable DAF HoldCo, or are you talking</p> <p>6 about charitable DAF Fund, L.P.?</p> <p>7 MR. TAYLOR: If you could be as</p> <p>8 specific as possible, and he'll try to</p> <p>9 answer as specifically as possible. I'm</p> <p>10 not sure which box you're talking about.</p> <p>11 MR. MORRIS: All right, Clay. Thank</p> <p>12 you.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Mr. Dondero, are you familiar with</p> <p>15 the phrase "DAF"?</p> <p>16 A. Yes.</p> <p>17 Q. Have you used that phrase before?</p> <p>18 A. Yes.</p> <p>19 Q. When you refer to – when you use</p> <p>20 the phrase "DAF," what are you referring to?</p> <p>21 A. It would depend.</p> <p>22 Q. On what?</p> <p>23 A. What the question is.</p> <p>24 Q. What's – do you have an</p> <p>25 understanding of what the Charitable DAF GP,</p>	<p style="text-align: right;">Page 295</p> <p>1 Dondero - 6-1-2021</p> <p>2 LLC, is?</p> <p>3 A. The exact structural differences,</p> <p>4 I – I – I – I don't know.</p> <p>5 Q. So when you use the phrase "DAF,"</p> <p>6 what are you referring to?</p> <p>7 A. In general, when I use the</p> <p>8 expression, it's the – the overall entity, the</p> <p>9 overall pool of capital and/or the overall</p> <p>10 entity that makes the donations from the pool</p> <p>11 of capital.</p> <p>12 Q. And which entity – withdrawn.</p> <p>13 Do you have an understanding as to</p> <p>14 which entity holds the pool of capital?</p> <p>15 A. No. It's – no, I don't know for</p> <p>16 sure.</p> <p>17 Q. Do you know if it's CLO HoldCo,</p> <p>18 Ltd.?</p> <p>19 MR. SBAITl: Objection, asked and</p> <p>20 answered.</p> <p>21 A. I don't know.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Do you know if Charitable DAF Fund,</p> <p>24 L.P., holds any assets?</p> <p>25 MR. SBAITl: Objection, relevance,</p>

<p>Page 296</p> <p>1 Dondero - 6-1-2021</p> <p>2 no foundation.</p> <p>3 A. I – I don't know which entities</p> <p>4 hold which of the assets.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Did you – did you approve of the</p> <p>7 organizational structure that Mr. Patrick</p> <p>8 created at your request?</p> <p>9 A. Yes.</p> <p>10 MR. TAYLOR: Objection, vague.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. I'm sorry. Did – did you answer,</p> <p>13 sir?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Who is Grant Scott?</p> <p>16 A. I understand he was the trustee of</p> <p>17 the DAF for a number of years.</p> <p>18 Q. When you say "he was the trustee of</p> <p>19 the DAF," what are you referring to?</p> <p>20 A. I always refer to him as "trustee,"</p> <p>21 but I see it's labeled here as "managing</p> <p>22 member."</p> <p>23 Q. Do you know how he came to be</p> <p>24 appointed the trustee of the DAF?</p> <p>25 A. I believe it was on my</p>	<p>Page 297</p> <p>1 Dondero - 6-1-2021</p> <p>2 recommendation.</p> <p>3 Q. Who did you make the recommendation</p> <p>4 to?</p> <p>5 A. It would have been Mark Patrick.</p> <p>6 Q. Did Mark Patrick have the authority</p> <p>7 to appoint Mr. Scott as the trustee of the DAF?</p> <p>8 MR. SBAITL: Objection, vague.</p> <p>9 Object to the extent it calls for a legal</p> <p>10 conclusion.</p> <p>11 A. Yeah, I don't know.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Well, you've known Mr. Scott since</p> <p>14 high school; isn't that right?</p> <p>15 A. Yes.</p> <p>16 Q. You went to UVA together; isn't that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. You were housemates together in</p> <p>20 college; isn't that right?</p> <p>21 A. Yes.</p> <p>22 Q. He was the best man at your wedding;</p> <p>23 isn't that right?</p> <p>24 A. Yes.</p> <p>25 Q. You picked Mr. Scott to serve as the</p>
<p>Page 298</p> <p>1 Dondero - 6-1-2021</p> <p>2 trustee of the DAF; isn't that right?</p> <p>3 MR. TAYLOR: Objection. That's not</p> <p>4 what he stated.</p> <p>5 A. I – on the original formation, I</p> <p>6 recommended Grant Scott.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. And you recommended Mr. Scott to</p> <p>9 Mr. Patrick?</p> <p>10 A. That's my recollection, I believe,</p> <p>11 but I don't remember specifically.</p> <p>12 Q. Do you remember if Mr. Patrick held</p> <p>13 any role in any entity on the chart that stands</p> <p>14 before you?</p> <p>15 Withdrawn.</p> <p>16 Do you know if Mr. Patrick held any</p> <p>17 role with any entity prior to January 1st,</p> <p>18 2021?</p> <p>19 MR. SBAITL: Objection, vague.</p> <p>20 A. I don't know.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Why did you make the recommendation</p> <p>23 to Mr. Patrick?</p> <p>24 A. Initially? You're saying the</p> <p>25 initial recommendation when it was set up?</p>	<p>Page 299</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Correct.</p> <p>3 A. 13, 14, 15 years ago.</p> <p>4 The – it – we thought – I thought</p> <p>5 at the time he would be suitable.</p> <p>6 Q. But why did you select Mr. Patrick</p> <p>7 as the person to whom to make your</p> <p>8 recommendation?</p> <p>9 A. Because he was responsible for</p> <p>10 setting up the overall structure.</p> <p>11 Q. Did he – were you seeking his</p> <p>12 approval when you made the recommendation to</p> <p>13 him?</p> <p>14 A. I – I don't know the roles he was</p> <p>15 playing at the – at that moment, so I – I</p> <p>16 don't know.</p> <p>17 Q. At the time that you recommended</p> <p>18 Mr. Scott to serve as the trustee of the DAF,</p> <p>19 did you have any understanding as to who had</p> <p>20 the authority to actually appoint Mr. Scott?</p> <p>21 A. I did not specifically.</p> <p>22 Q. Did you ever learn who had the power</p> <p>23 to appoint the trustee of the DAF?</p> <p>24 A. I did not.</p> <p>25 Q. As you sit here today, do you have</p>

<p style="text-align: right;">Page 300</p> <p>1 Dondero - 6-1-2021</p> <p>2 any understanding as to who has the power to</p> <p>3 appoint the trustee of the DAF?</p> <p>4 MR. TAYLOR: I'll instruct the</p> <p>5 witness not to answer to the extent it</p> <p>6 would require him to reveal privileged</p> <p>7 communications with counsel.</p> <p>8 MR. MORRIS: I'm not asking him for</p> <p>9 any communications, to be clear.</p> <p>10 MR. TAYLOR: Or anything he heard</p> <p>11 from counsel.</p> <p>12 (Audio distortion.)</p> <p>13 MR. MORRIS: Please don't – Clay,</p> <p>14 you're a very good lawyer, please don't</p> <p>15 coach the witness. He's a very</p> <p>16 sophisticated witness.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you have any understanding, as</p> <p>19 you sit here today, sir, as to who has the</p> <p>20 authority to appoint the trustee of the DAF?</p> <p>21 A. I know it's complicated. I know it</p> <p>22 has to do with shares. I know it's – I know</p> <p>23 it's multiple levels, but I don't have specific</p> <p>24 knowledge.</p> <p>25 Q. Do you know if Mr. Patrick ever</p>	<p style="text-align: right;">Page 301</p> <p>1 Dondero - 6-1-2021</p> <p>2 considered appointing – withdrawn.</p> <p>3 MR. MORRIS: Could we please put up</p> <p>4 the next exhibit, Patrick File 6,</p> <p>5 Document 1?</p> <p>6 (Exhibit 2 introduced.)</p> <p>7 MR. SBAITI: John, is that document</p> <p>8 you put up a labeled exhibit for the, like</p> <p>9 Exhibit 1 or something, the one you have up</p> <p>10 right here.</p> <p>11 MR. MORRIS: Yeah, that will be</p> <p>12 marked as Exhibit 1, thank you.</p> <p>13 So, now we're going to put up</p> <p>14 Exhibit 2.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Do you see that that's the Amended</p> <p>17 and Restated Limited Liability Company</p> <p>18 Agreement of the Charitable DAF GP, LLC?</p> <p>19 A. Yes.</p> <p>20 Q. And do you see that it's dated</p> <p>21 effective as of January 1st, 2012?</p> <p>22 A. Yes.</p> <p>23 Q. So, that's approximately nine plus</p> <p>24 years ago.</p> <p>25 Do I have that right?</p>
<p style="text-align: right;">Page 302</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 MR. MORRIS: Can we go to the last</p> <p>5 page, please?</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Is that your signature on that page,</p> <p>8 sir?</p> <p>9 A. Yes.</p> <p>10 Q. And do you understand that, pursuant</p> <p>11 to this agreement, Mr. Scott replaced you as</p> <p>12 the managing member of the DAF GP, LLC?</p> <p>13 A. I – I don't have a recollection of</p> <p>14 that.</p> <p>15 Q. Do you remember that you served as</p> <p>16 the managing member of the DAF GP, LLC?</p> <p>17 A. I don't – I don't recall that.</p> <p>18 Q. Now, Mr. Scott is a lawyer, correct?</p> <p>19 A. Yes.</p> <p>20 Q. He's a patent lawyer. Do I have</p> <p>21 that right?</p> <p>22 A. Yes.</p> <p>23 Q. He has no experience or expertise in</p> <p>24 finance, does he, to the best of your</p> <p>25 knowledge?</p>	<p style="text-align: right;">Page 303</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. I would not say he has expertise. I</p> <p>3 wouldn't say he's an expert in it, but I – I'd</p> <p>4 say he's more sophisticated than the average</p> <p>5 layperson.</p> <p>6 Q. Well, at the time that you</p> <p>7 recommended him to Mr. Patrick, did you do so</p> <p>8 because you thought he had valuable experience</p> <p>9 and expertise in finance or investment?</p> <p>10 MR. SBAITI: Objection, assumes</p> <p>11 facts not in evidence before the witness.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. That wasn't one of the reasons you</p> <p>14 recommended Mr. Scott, is it?</p> <p>15 A. He wasn't going to be the investment</p> <p>16 advisor. DAF had a separate investment</p> <p>17 advisor.</p> <p>18 Q. And who was going to be the</p> <p>19 investment advisor?</p> <p>20 A. Highland.</p> <p>21 Q. And you owned and controlled</p> <p>22 Highland at the time, correct?</p> <p>23 MR. TAYLOR: Objection.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Withdrawn.</p>

<p style="text-align: right;">Page 304</p> <p>1 Dondero - 6-1-2021</p> <p>2 You controlled Highland at the time,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Did Mr. Scott have any experience or</p> <p>6 expertise running charitable organizations, to</p> <p>7 the best of your knowledge?</p> <p>8 A. No.</p> <p>9 Q. Had he ever, to the best of your</p> <p>10 knowledge, made any decisions concerning</p> <p>11 collateralized loan obligations?</p> <p>12 A. No.</p> <p>13 Q. Can you tell me why you recommended</p> <p>14 to Mr. Patrick that Mr. Scott serve as the</p> <p>15 trustee of DAF?</p> <p>16 MR. TAYLOR: Objection, asked and</p> <p>17 answered.</p> <p>18 A. I – I thought he would be a good</p> <p>19 fit for the position.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Why?</p> <p>22 A. It required – I don't – in my</p> <p>23 mind – or I believed it would require a lawyer</p> <p>24 and someone with legal skills, and I thought he</p> <p>25 would be good at the position.</p>	<p style="text-align: right;">Page 305</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. And you trusted him; is that right?</p> <p>3 A. I – yes.</p> <p>4 Q. And you had a life-long relationship</p> <p>5 with him; isn't that right? Isn't that one of</p> <p>6 the reasons why you recommended him for this</p> <p>7 position?</p> <p>8 A. Yes.</p> <p>9 Q. Do you know whether Mr. Patrick –</p> <p>10 withdrawn.</p> <p>11 Is Mr. – do you believe that</p> <p>12 Mr. Patrick is the person who appointed</p> <p>13 Mr. Scott as your successor as managing member</p> <p>14 in 2012?</p> <p>15 MR. SBAITI: Objection, asked and</p> <p>16 answered, calls for speculation; and object</p> <p>17 to the extent it calls for a legal</p> <p>18 conclusion.</p> <p>19 A. I could – I could repeat the answer</p> <p>20 again.</p> <p>21 I don't know the formal process, but</p> <p>22 I do remember recommending to Mark Patrick that</p> <p>23 Grant would be a good candidate. Now, how –</p> <p>24 what mechanism and how the process works and</p> <p>25 who actually approved that, I – I don't know.</p>
<p style="text-align: right;">Page 306</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Did you recommend anybody else, or</p> <p>4 was Mr. Scott the only person that you</p> <p>5 recommended?</p> <p>6 A. I don't – I don't remember. I</p> <p>7 don't remember. I don't remember recommending</p> <p>8 anybody else or if the process required it. I</p> <p>9 don't remember the process.</p> <p>10 Q. Was anybody involved in the process</p> <p>11 other than you and Mr. Patrick?</p> <p>12 MR. TAYLOR: Objection to the extent</p> <p>13 it calls for speculation.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Withdrawn.</p> <p>16 Do you know – do you know if</p> <p>17 anybody was in the process – involved in the</p> <p>18 process other than you and Mr. Patrick?</p> <p>19 A. Again, I don't know the process and</p> <p>20 the mechanism, if there were offshore boards</p> <p>21 involved or if the four underlying charities</p> <p>22 were involved. It was – it was complicated,</p> <p>23 and I delegated the process to Mark Patrick.</p> <p>24 Q. Okay. I'm not asking you to</p> <p>25 speculate. I'm just asking for your knowledge.</p>	<p style="text-align: right;">Page 307</p> <p>1 Dondero - 6-1-2021</p> <p>2 Can you identify any person or</p> <p>3 entity who was involved in the appointment of</p> <p>4 Mr. Scott as your successor as managing member</p> <p>5 of the DAF GP, LLC, other than yourself and</p> <p>6 Mr. Patrick?</p> <p>7 MR. SBAITI: Objection, assumes</p> <p>8 facts.</p> <p>9 A. Yeah, I don't – I don't have</p> <p>10 specific knowledge.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Okay. Do you understand that in</p> <p>13 addition to becoming the managing member of the</p> <p>14 Charitable DAF GP, LLC, that Mr. Scott also</p> <p>15 became the sole director of the Charitable DAF</p> <p>16 HoldCo, Ltd., Charitable DAF Fund, L.P., and</p> <p>17 CLO HoldCo, Ltd.?</p> <p>18 MR. TAYLOR: Objection, assumes</p> <p>19 facts not before the witness.</p> <p>20 A. No.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you know if he ever held the</p> <p>23 directorship of any of those entities?</p> <p>24 MR. SBAITI: Objection, vague.</p> <p>25 A. I – I don't know what his exact</p>

<p style="text-align: right;">Page 308</p> <p>1 Dondero - 6-1-2021</p> <p>2 role is now, but I – I thought I was informed</p> <p>3 that that's – his role now has something to do</p> <p>4 with directorship.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Can we put the chart back up,</p> <p>7 Exhibit 1, please?</p> <p>8 (Exhibit 1 on screen.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Do you know whether Mr. Scott held</p> <p>11 any position at all with Charitable DAF HoldCo,</p> <p>12 Ltd., at any time?</p> <p>13 A. I don't know.</p> <p>14 Q. Can you identify any person who's</p> <p>15 ever – who you believe had the authority to</p> <p>16 act on behalf of the Charitable DAF HoldCo,</p> <p>17 Ltd., prior to March 1st, 2021?</p> <p>18 MR. SBAITI: Objection, assumes</p> <p>19 facts not in evidence.</p> <p>20 A. I don't know.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. You can't name anybody in the world</p> <p>23 who was authorized on behalf of – who was</p> <p>24 authorized to act on behalf of the Charitable</p> <p>25 DAF HoldCo, Ltd., prior to March 1st, 2021?</p>	<p style="text-align: right;">Page 309</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. TAYLOR: Objection, asked and</p> <p>3 answered.</p> <p>4 MR. SBAITI: Objection, calls for a</p> <p>5 legal opinion.</p> <p>6 A. I don't know.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. How about the Charitable DAF Fund,</p> <p>9 L.P.; can you identify anybody in the world who</p> <p>10 was authorized to act on behalf of that entity</p> <p>11 prior to March 1st, 2021?</p> <p>12 MR. SBAITI: Objection, calls for a</p> <p>13 legal opinion.</p> <p>14 A. I mean, other than Grant Scott, the</p> <p>15 org chart seems to roll up back up to him.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Okay. So, you're willing to say</p> <p>18 that Grant Scott acted on behalf of that</p> <p>19 entity?</p> <p>20 Do I have that right?</p> <p>21 MR. TAYLOR: That's not –</p> <p>22 mischaracterizes his statements. He's</p> <p>23 giving you his general –</p> <p>24 MR. MORRIS: Just object to the form</p> <p>25 of the question. Please, no speaking</p>
<p style="text-align: right;">Page 310</p> <p>1 Dondero - 6-1-2021</p> <p>2 objections. It's very simple.</p> <p>3 MR. TAYLOR: So, John, I'm going to</p> <p>4 make my record. If you don't like it, then</p> <p>5 bring it up with the Judge.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Mr. Dondero, do you understand that</p> <p>8 Mr. Scott was authorized to act on behalf of</p> <p>9 the Charitable DAF Fund, L.P., prior to</p> <p>10 March 1st, 2021?</p> <p>11 MR. TAYLOR: Objection, calls for a</p> <p>12 legal conclusion.</p> <p>13 A. I – I don't know.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Okay. Do you know if anybody was</p> <p>16 authorized to act on behalf of CLO HoldCo,</p> <p>17 Ltd., prior to March 1st, 2021?</p> <p>18 MR. TAYLOR: Objection, calls for a</p> <p>19 legal conclusion.</p> <p>20 A. I – I don't know the specifics on</p> <p>21 how this operated.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. But you can't identify any person,</p> <p>24 do I have that right, you don't know the</p> <p>25 identity of any person who was ever authorized</p>	<p style="text-align: right;">Page 311</p> <p>1 Dondero - 6-1-2021</p> <p>2 to act on behalf of CLO HoldCo, Ltd., prior to</p> <p>3 March 1st, 2021; is that right?</p> <p>4 MR. TAYLOR: Objection, calls for a</p> <p>5 legal conclusion.</p> <p>6 MR. MORRIS: I'm not asking for a</p> <p>7 legal conclusion. I'm asking for</p> <p>8 Mr. Dondero's knowledge of the facts or his</p> <p>9 understanding of the facts.</p> <p>10 MR. TAYLOR: With all due respect,</p> <p>11 it calls for a legal conclusion.</p> <p>12 MR. MORRIS: I cannot wait – I</p> <p>13 cannot wait until next Tuesday. This is</p> <p>14 going to be brilliant.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Mr. Dondero, let me try one last</p> <p>17 time.</p> <p>18 Can you identify any person who you</p> <p>19 believed was authorized to act on behalf of CLO</p> <p>20 HoldCo, Ltd., prior to March 1st, 2021?</p> <p>21 A. I need to answer the question this</p> <p>22 way: My knowledge begins and ends with Grant</p> <p>23 as the trustee, or on this org chart, managing</p> <p>24 member; and his control, it looks like it flows</p> <p>25 down through all those entities. Now – or –</p>

<p>Page 312</p> <p>1 Dondero - 6-1-2021</p> <p>2 or ownership, at least, or maybe control or</p> <p>3 agreement.</p> <p>4 Now, what other people or boards or</p> <p>5 trustees or – or entity he had to go through,</p> <p>6 whether US Cayman Guemsey, et cetera, to get</p> <p>7 things done and where the assets were held, I</p> <p>8 do not have specific knowledge and I don't know</p> <p>9 the names of the people or the entities that</p> <p>10 were on those boards or – supervisory or</p> <p>11 holders of shares, or whatever. I wasn't</p> <p>12 specifically involved in the operation of this</p> <p>13 structure.</p> <p>14 Q. Did the Charitable DAF Fund, L.P.,</p> <p>15 and Highland Capital Management, L.P., enter</p> <p>16 into an Amended and Restated Investment</p> <p>17 Advisory Agreement, to the best of your</p> <p>18 knowledge?</p> <p>19 A. There was an Investment Advisory</p> <p>20 Agreement, as far as I knew.</p> <p>21 Q. And what is your understanding of</p> <p>22 the purpose of the Investment Advisory</p> <p>23 Agreement?</p> <p>24 A. Excuse me.</p> <p>25 To provide portfolio management to</p>	<p>Page 313</p> <p>1 Dondero - 6-1-2021</p> <p>2 achieve adequate returns on the portfolio to</p> <p>3 support the charitable giving of the DAF.</p> <p>4 Q. Did Mr. Scott lack the capability to</p> <p>5 provide portfolio management services to the</p> <p>6 Charitable DAF Fund, L.P., to the best of your</p> <p>7 knowledge?</p> <p>8 A. I would not say that.</p> <p>9 Q. So why – why did – withdrawn.</p> <p>10 Was the – did you participate in</p> <p>11 the negotiation – withdrawn.</p> <p>12 Can we please put up the next</p> <p>13 exhibit? We'll call it Exhibit 3.</p> <p>14 (Exhibit 3 introduced.)</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Do you see this is an Amended and</p> <p>17 Restated Investment Advisory Agreement between</p> <p>18 the Charitable DAF Fund, L.P.; the Charitable</p> <p>19 DAF, GP, LLC; and Highland Capital Management,</p> <p>20 L.P.?</p> <p>21 A. Yes.</p> <p>22 Q. Is this the agreement you were just</p> <p>23 referring to?</p> <p>24 A. Unless there was another amended</p> <p>25 one. I believe there was always one – best</p>
<p>Page 314</p> <p>1 Dondero - 6-1-2021</p> <p>2 practice is to have an investment advisory</p> <p>3 group.</p> <p>4 Q. And do you know who prepared this</p> <p>5 document?</p> <p>6 A. No.</p> <p>7 Q. Do you know if it was the subject of</p> <p>8 any negotiation?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know if the Charitable DAF</p> <p>11 Fund, L.P., or the Charitable DAF GP, LLC, had</p> <p>12 independent counsel in connection with the</p> <p>13 negotiation and execution of this Amended and</p> <p>14 Restated Investment Advisory Agreement?</p> <p>15 A. I don't know.</p> <p>16 Q. Do you know if the Charitable DAF</p> <p>17 Fund, L.P., or the Charitable DAF GP, LLC, ever</p> <p>18 hired independent counsel prior to the</p> <p>19 commencement of Highland's bankruptcy in</p> <p>20 October 2019?</p> <p>21 A. I don't know.</p> <p>22 Q. Did those entities also enter into a</p> <p>23 Shared Services Agreement with Highland Capital</p> <p>24 Management?</p> <p>25 A. I believe there was a Shared</p>	<p>Page 315</p> <p>1 Dondero - 6-1-2021</p> <p>2 Services Agreement. I don't know which DAF</p> <p>3 entities entered it.</p> <p>4 Q. Before we get to that, pursuant to</p> <p>5 the Investment and Advisory Agreement, did</p> <p>6 Highland Capital Management, L.P., manage the</p> <p>7 assets of the DAF and CLO HoldCo?</p> <p>8 MR. TAYLOR: Objection, vague.</p> <p>9 A. Can you repeat the question again?</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Sure. Is it your understanding that</p> <p>12 pursuant to this agreement, HCMLP managed the</p> <p>13 assets of the DAF and CLO HoldCo?</p> <p>14 A. This agreement discusses the DAF,</p> <p>15 right?</p> <p>16 This disagreement doesn't discuss</p> <p>17 CLO HoldCo, right?</p> <p>18 Q. Do you know whether HCMLP ever had</p> <p>19 any agreement of any kind with CLO HoldCo</p> <p>20 pursuant to which it managed CLO HoldCo's</p> <p>21 assets?</p> <p>22 A. I don't know for certain.</p> <p>23 Q. Do you have any understanding at all</p> <p>24 as to whether such an agreement existed?</p> <p>25 A. I – I don't know for certain. I'm</p>

<p style="text-align: right;">Page 316</p> <p>1 Dondero - 6-1-2021</p> <p>2 willing to be refreshed.</p> <p>3 Q. Do you know who provides –</p> <p>4 withdrawn.</p> <p>5 Do you know whether anybody provides</p> <p>6 independent – withdrawn.</p> <p>7 Do you know whether anybody has an</p> <p>8 agreement with the Charitable DAF Fund, L.P.,</p> <p>9 or the Charitable DAF GP, LLC, today similar to</p> <p>10 the type that had been previously entered into</p> <p>11 with HCMLP?</p> <p>12 MR. TAYLOR: Objection, vague.</p> <p>13 A. I believe Skygate has a similar –</p> <p>14 similar agreements in place.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Is it your understanding that</p> <p>17 Skygate effectively replaced HCMLP as the</p> <p>18 investment advisor to the DAF?</p> <p>19 A. Let me clarify that for a second.</p> <p>20 I believe Skygate has the Shared</p> <p>21 Services Agreement. I don't know whether it's</p> <p>22 Skygate or NexPoint has the Investment Advisory</p> <p>23 Agreement or if it was another entity. I</p> <p>24 don't – I don't know. I – I don't know the</p> <p>25 specifics.</p>	<p style="text-align: right;">Page 317</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Okay. While Mr. Scott served – I</p> <p>3 think you said as the trustee of the DAF, can</p> <p>4 you identify any investment decision that HCMLP</p> <p>5 had recommended that Mr. Scott rejected?</p> <p>6 A. No.</p> <p>7 Q. Can you think of any investment that</p> <p>8 Mr. Scott made on behalf of the DAF that didn't</p> <p>9 originate with HCMLP?</p> <p>10 A. He wasn't the investment advisor,</p> <p>11 but, no, I don't – I don't recall.</p> <p>12 Q. Let's just speed this up a bit.</p> <p>13 Do you recall that in October 2019,</p> <p>14 the debtor filed for bankruptcy?</p> <p>15 A. Yes.</p> <p>16 Q. And do you recall that after the</p> <p>17 debtor filed for bankruptcy, CLO HoldCo, Ltd.,</p> <p>18 retained John Kane to act as counsel on its</p> <p>19 behalf?</p> <p>20 A. I – I know he was retained. I</p> <p>21 don't know which entities in particular.</p> <p>22 Q. Do you have any understanding as to</p> <p>23 who Mr. Kane represented?</p> <p>24 A. My understanding was that he</p> <p>25 represented the DAF. Now, whether it included</p>
<p style="text-align: right;">Page 318</p> <p>1 Dondero - 6-1-2021</p> <p>2 all entities, CLO HoldCo, the offshore</p> <p>3 entities, which entities, I – I don't know.</p> <p>4 Q. Do you know if – do you know how</p> <p>5 Mr. Kane came to be retained by the DAF?</p> <p>6 MR. SBAITI: Objection to the extent</p> <p>7 it calls for the DAF's confidential</p> <p>8 privileged information (inaudible.)</p> <p>9 A. I – I don't remember. I know the</p> <p>10 lawyers – I let the legal department or</p> <p>11 lawyers find and identify good – I let them go</p> <p>12 through the process of identifying and vetting</p> <p>13 law firms.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. And are the lawyers that you're</p> <p>16 referring to in-house counsel at HCMLP?</p> <p>17 A. I – I don't know which lawyers were</p> <p>18 involved.</p> <p>19 Q. Well, you just said that you let the</p> <p>20 lawyers do the vetting. Which lawyers were you</p> <p>21 referring to?</p> <p>22 A. It could have been the HCMLP</p> <p>23 lawyers, it could have been NexPoint lawyers.</p> <p>24 I don't know.</p> <p>25 Q. Could it have been any other lawyers</p>	<p style="text-align: right;">Page 319</p> <p>1 Dondero - 6-1-2021</p> <p>2 besides the HCMLP lawyers and the NexPoint</p> <p>3 lawyers?</p> <p>4 A. I mean – yes. I mean, sometimes we</p> <p>5 get recommendations from outside counsel</p> <p>6 regarding other outside counsel. The</p> <p>7 recommendation could have come from one of the</p> <p>8 other bankruptcy attorneys involved in the</p> <p>9 case. I don't know.</p> <p>10 Q. Do you recall that in October 2020,</p> <p>11 Mr. Scott caused CLO HoldCo to amend its proof</p> <p>12 of claim?</p> <p>13 MR. TAYLOR: Objection, assumes</p> <p>14 facts not before the witness.</p> <p>15 A. Yeah, I don't – I don't know.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Let me take it out of the –</p> <p>18 (Simultaneous conversation.)</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Okay. Let me take it out of the</p> <p>21 time frame.</p> <p>22 Do you recall that there came a</p> <p>23 moment in time when Mr. Scott caused CLO HoldCo</p> <p>24 to amend its proof of claim by reducing the</p> <p>25 value of the claim to zero dollars?</p>

<p>Page 320</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. I – I know there was ultimately a</p> <p>3 settlement agreement. I don't know how that</p> <p>4 manifested itself.</p> <p>5 Q. Okay. So, just to be clear, you</p> <p>6 don't have any memory of CLO HoldCo –</p> <p>7 withdrawn.</p> <p>8 Do you have a memory of CLO HoldCo</p> <p>9 filing its original proof of claim in the</p> <p>10 amount of approximately \$11 million?</p> <p>11 A. I – I don't recall the amount. I</p> <p>12 do remember that the DAF was overbilled by</p> <p>13 Highland and there was a claim. Whether it was</p> <p>14 a POC or an administrative claim or – I don't</p> <p>15 know how that manifested itself in the</p> <p>16 bankruptcy. It's – yeah.</p> <p>17 Q. Okay. And regardless of the form of</p> <p>18 the claim, do you remember that there came a</p> <p>19 point in time when Mr. Scott amended the claim</p> <p>20 to reduce the value to zero?</p> <p>21 A. I – I heard a hundred thousand</p> <p>22 dollars, but it's essentially zero, I guess.</p> <p>23 Q. And did you know that Mr. Scott was</p> <p>24 going to amend the proof of claim in that</p> <p>25 manner prior to the time that he actually did</p>	<p>Page 321</p> <p>1 Dondero - 6-1-2021</p> <p>2 so?</p> <p>3 MR. TAYLOR: Objection to the extent</p> <p>4 it calls for him to invade the</p> <p>5 attorney-client privilege.</p> <p>6 A. I don't – I don't have knowledge of</p> <p>7 what you just said. I – my recollection is</p> <p>8 there was a legitimate overbilling that</p> <p>9 Highland did to multiple parties who have</p> <p>10 pursued multiple – those multiple claims</p> <p>11 against the estate, but I don't have – I don't</p> <p>12 have specific knowledge of why the 11 was</p> <p>13 reduced to zero, but –</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Did you ever discuss with Mr. Scott</p> <p>16 his decision to reduce the claim to zero?</p> <p>17 A. Not – not before he did it.</p> <p>18 Q. At any time, did you ever discuss</p> <p>19 with Mr. Scott his decision to reduce the claim</p> <p>20 to zero?</p> <p>21 A. I believe afterwards.</p> <p>22 Q. And what do you recall about your</p> <p>23 discussions with Mr. Scott afterwards?</p> <p>24 A. That he had given up bona fide</p> <p>25 claims against the debtor, and I didn't</p>
<p>Page 322</p> <p>1 Dondero - 6-1-2021</p> <p>2 understand why.</p> <p>3 Q. Did he explain to you why he thought</p> <p>4 he was not giving up bona fide claims –</p> <p>5 withdrawn.</p> <p>6 What did he say in response?</p> <p>7 MR. SBAITI: Objection, calls</p> <p>8 for legal –</p> <p>9 (Audio distortion.)</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. If anything?</p> <p>12 A. I don't remember him having an</p> <p>13 explanation.</p> <p>14 Q. Was anybody else – did anybody else</p> <p>15 participate in this discussion?</p> <p>16 A. No.</p> <p>17 Q. Did this discussion occur in a</p> <p>18 singular phone call, or was it in multiple –</p> <p>19 during multiple conversations?</p> <p>20 A. A couple, one or two.</p> <p>21 Q. Do you remember anything about your</p> <p>22 discussions with Mr. Scott concerning his</p> <p>23 decision to amend CLO HoldCo's proof of claim</p> <p>24 by reducing it to zero, other than what you've</p> <p>25 testified to so far?</p>	<p>Page 323</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. TAYLOR: Objection, vague.</p> <p>3 A. No, but I'm willing – I'm willing</p> <p>4 to be refreshed or answer more questions, but</p> <p>5 those are the only things that come to mind.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Okay. So, I think what you've told</p> <p>8 me—and I just want to make sure that I have</p> <p>9 this right—that after the amendment was filed,</p> <p>10 you had several conversations with Mr. Scott in</p> <p>11 which you told him that you believed he had</p> <p>12 given up bona fide claims against the debtor,</p> <p>13 but that you don't recall what, if anything, he</p> <p>14 said in response.</p> <p>15 Have I missed anything?</p> <p>16 A. You used "several." It's – I said</p> <p>17 "a couple."</p> <p>18 Q. Okay.</p> <p>19 A. But otherwise, that's – that's my</p> <p>20 testimony.</p> <p>21 Q. Do you recall that sometime after</p> <p>22 that, CLO HoldCo had filed an objection to the</p> <p>23 proposed HarbourVest Settlement?</p> <p>24 A. Yes.</p> <p>25 Q. And did you subsequently learn that</p>

<p style="text-align: right;">Page 324</p> <p>1 Dondero - 6-1-2021</p> <p>2 CLO HoldCo withdrew its objection to the</p> <p>3 HarbourVest Settlement?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall if you learned that</p> <p>6 before or after CLO HoldCo withdrew its</p> <p>7 objection – withdrawn.</p> <p>8 That wasn't a good question.</p> <p>9 Did you know, prior to the time that</p> <p>10 CLO HoldCo announced that it was withdrawing</p> <p>11 its objection, that it intended to do so; or</p> <p>12 did you learn about that after – you know, as</p> <p>13 the announcement was being made?</p> <p>14 MR. SBAIT: Objection, compound.</p> <p>15 MR. TAYLOR: Objection, compound.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. You can answer.</p> <p>18 A. I learned about it at the hearing.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Were you surprised?</p> <p>21 A. Yes.</p> <p>22 Q. And why were you surprised?</p> <p>23 A. It was inappropriate.</p> <p>24 Q. Why did you believe it was</p> <p>25 inappropriate?</p>	<p style="text-align: right;">Page 325</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. The night before, Counsel had</p> <p>3 confirmed with other counsel.</p> <p>4 MR. TAYLOR: Instruct the witness</p> <p>5 not to reveal any privileged information.</p> <p>6 THE WITNESS: Okay.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Mr. Dondero, you and I have done</p> <p>9 this many, many times. I hope that you</p> <p>10 understand that I'm never, ever asking or</p> <p>11 hoping that you'll mistakenly divulge</p> <p>12 attorney-client communications.</p> <p>13 A. Yeah. Let me rephrase.</p> <p>14 Q. Yeah. So, having said that, you</p> <p>15 said that you believed it was inappropriate;</p> <p>16 and the question is really simple: Why did you</p> <p>17 believe it was inappropriate?</p> <p>18 A. There was legal basis or legal</p> <p>19 interpretation, I believed, in the governing</p> <p>20 partnership agreement justifying the objection;</p> <p>21 and I also believed there were duties under the</p> <p>22 Advisors Act to – for the DAF to continue with</p> <p>23 its – or to argue its objections.</p> <p>24 Q. And after you learned that Mr. Scott</p> <p>25 instructed his attorneys to withdraw CLO</p>
<p style="text-align: right;">Page 326</p> <p>1 Dondero - 6-1-2021</p> <p>2 HoldCo's objection to the HarbourVest</p> <p>3 Settlement, did you have a conversation with</p> <p>4 Mr. Scott about his decision?</p> <p>5 MR. TAYLOR: Objection, assumes</p> <p>6 facts not in evidence.</p> <p>7 A. Yeah, I don't agree with the first</p> <p>8 part of that question, so I need you to</p> <p>9 rephrase it, please.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. After you – after you learned that</p> <p>12 CLO HoldCo withdrew the objection, did you</p> <p>13 speak with Mr. Scott about that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Did you have one conversation</p> <p>16 or more than one conversation with Mr. Scott</p> <p>17 concerning CLO HoldCo's withdrawal of its</p> <p>18 objection to the HarbourVest Settlement?</p> <p>19 A. I – I only recall one.</p> <p>20 Q. Did anybody participate in that</p> <p>21 conversation besides the two of you?</p> <p>22 A. No.</p> <p>23 Q. Did that conversation take place on</p> <p>24 the telephone or in some other form?</p> <p>25 A. I – I don't know.</p>	<p style="text-align: right;">Page 327</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Do you know how long after the</p> <p>3 conclusion of the hearing the conversation took</p> <p>4 place? Was it the same day? Was it</p> <p>5 afterwards?</p> <p>6 A. I believe it was the same day or</p> <p>7 shortly thereafter.</p> <p>8 Q. And what do you recall – please</p> <p>9 tell me everything you recall about the</p> <p>10 conversation, everything that you said and</p> <p>11 everything that he said.</p> <p>12 A. The only two points I remember was</p> <p>13 that it was inappropriate for the DAF to change</p> <p>14 direction an hour before the hearing without</p> <p>15 informing anybody else when it was – yeah,</p> <p>16 when it was a reversal of the direction he had</p> <p>17 been going in for weeks and that it was also</p> <p>18 inappropriate to – well, no, that's – that</p> <p>19 was – that was really – that was really it, I</p> <p>20 guess.</p> <p>21 Q. Do you recall what, if anything,</p> <p>22 Mr. Scott said in response?</p> <p>23 MR. SBAIT: Objection calls –</p> <p>24 (inaudible.)</p> <p>25 MR. MORRIS: What's the basis for</p>

<p>Page 328</p> <p>1 Dondero - 6-1-2021</p> <p>2 the objection?</p> <p>3 MR. TAYLOR: Objection, calls for</p> <p>4 hearsay.</p> <p>5 MR. SBAITl: Calls for hearsay.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. You can answer.</p> <p>8 A. That he had done it based on advice</p> <p>9 of counsel.</p> <p>10 Q. Did you have any reason to doubt</p> <p>11 that?</p> <p>12 A. It – it didn't – it didn't make</p> <p>13 sense that counsel would change their opinion</p> <p>14 between the night before and the morning of the</p> <p>15 hearing, but I guess that – that is a reason</p> <p>16 to doubt it.</p> <p>17 Q. Do you think – do you think</p> <p>18 Mr. Scott acted in good faith when he made the</p> <p>19 decision to withdraw CLO HoldCo's objection to</p> <p>20 the HarbourVest Settlement?</p> <p>21 A. Can you ask that question – ask</p> <p>22 that question again, please?</p> <p>23 Q. Sure. Do you believe that Mr. Scott</p> <p>24 acted in good faith when he made the decision</p> <p>25 to withdraw the CLO HoldCo objection to the</p>	<p>Page 329</p> <p>1 Dondero - 6-1-2021</p> <p>2 HarbourVest Settlement?</p> <p>3 A. I don't believe he operated in the</p> <p>4 best interest of the DAF or CLO HoldCo by</p> <p>5 withdrawing the claims or withdrawing the</p> <p>6 objectives – objections.</p> <p>7 Q. Did you – did the subject of the</p> <p>8 Advisors Act come up during this conversation?</p> <p>9 A. I don't – I don't remember if it</p> <p>10 specifically came up.</p> <p>11 Q. Do you recall if the subject of</p> <p>12 "fiduciary duties" came up in this</p> <p>13 conversation?</p> <p>14 A. Not using those words, but reminding</p> <p>15 him he needed to do what was in the best</p> <p>16 interest of the DAF was definitely part of the</p> <p>17 conversation.</p> <p>18 Q. Earlier you said – and I – if I</p> <p>19 miss – if I don't get this right, please feel</p> <p>20 free to correct me; but I believe you said that</p> <p>21 it was inappropriate for the DAF to change</p> <p>22 direction without informing anybody else.</p> <p>23 Do I have that right?</p> <p>24 A. Yes.</p> <p>25 Q. And who do you believe Mr. Scott</p>
<p>Page 330</p> <p>1 Dondero - 6-1-2021</p> <p>2 needed to inform of his decision?</p> <p>3 A. There was some coordination and</p> <p>4 cooperation among lawyers representing</p> <p>5 different parties and I believe there was some</p> <p>6 obligation – some professional obligation as</p> <p>7 part of that to inform and keep people abreast</p> <p>8 of it.</p> <p>9 Q. And would the lawyers at Bonds</p> <p>10 Ellis, your personal counsel, be among those</p> <p>11 lawyers that you believed he had the</p> <p>12 professional obligation to inform?</p> <p>13 MR. SBAITl: Objection –</p> <p>14 A. I don't know.</p> <p>15 MR. SBAITl: – lacks foundation.</p> <p>16 A. I don't know who was in the</p> <p>17 coordination group.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Do you believe that he had an</p> <p>20 obligation to inform you in advance?</p> <p>21 MR. SBAITl: Objection, vague.</p> <p>22 A. I don't know if I would use the word</p> <p>23 "obligation," but, again, as the founder or the</p> <p>24 primary donor and continued donor to the DAF</p> <p>25 and as the investment advisor fighting for</p>	<p>Page 331</p> <p>1 Dondero - 6-1-2021</p> <p>2 above-average returns on a daily basis for the</p> <p>3 fund, significant decisions that affect the</p> <p>4 finances of the fund would be something I would</p> <p>5 expect typically a trustee to discuss with a</p> <p>6 primary donor.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. And which primary donor are you</p> <p>9 referring to?</p> <p>10 A. Highland, prior to bankruptcy, and</p> <p>11 myself or NexPoint post-bankruptcy.</p> <p>12 Q. Is Dugaboy – The Dugaboy Investment</p> <p>13 Trust a donor to the DAF?</p> <p>14 MR. SBAITl: Objection, relevance.</p> <p>15 A. I – I believe it's been a donor</p> <p>16 over the years. It wasn't the initial donor, I</p> <p>17 don't believe.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. How about the Get Good Trust? Is</p> <p>20 the Get Good Trust a donor to the DAF?</p> <p>21 MR. SBAITl: Objection, relevance.</p> <p>22 A. I don't know.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Do you know if either the Get Good</p> <p>25 Trust or the Dugaboy Trust has any beneficial</p>

<p>Page 332</p> <p>1 Dondero - 6-1-2021</p> <p>2 interest in any of the DAF entities?</p> <p>3 A. It does not – or they do not.</p> <p>4 Q. Do you know if either of the Get</p> <p>5 Good or Dugaboy trusts have an interest in the</p> <p>6 CLO HoldCo, Ltd., entity?</p> <p>7 A. They – they do not. They do not.</p> <p>8 Q. Do you recall that a short while</p> <p>9 later or – or maybe even within the same</p> <p>10 month, the debtor commenced a lawsuit against</p> <p>11 the entities that we've referred to previously</p> <p>12 as the Advisors, the Funds, and CLO HoldCo,</p> <p>13 Ltd.?</p> <p>14 A. Which litigation is that?</p> <p>15 Q. That was the one where the debtor is</p> <p>16 seeking injunctive relief; and there was a</p> <p>17 hearing in late January on the debtor's motion</p> <p>18 for preliminary injunction against the Funds,</p> <p>19 the Advisors, and CLO HoldCo?</p> <p>20 A. There's – there's – which</p> <p>21 specifically?</p> <p>22 Q. Do you remember that there came a</p> <p>23 point in time when – when Mr. Scott, on behalf</p> <p>24 of CLO HoldCo, reached a settlement with the</p> <p>25 debtor that resolved the debtor's claim against</p>	<p>Page 333</p> <p>1 Dondero - 6-1-2021</p> <p>2 CLO HoldCo, Ltd.?</p> <p>3 A. I'm aware there was a settlement</p> <p>4 that resolved most of his – the – most of the</p> <p>5 issues with the debtor.</p> <p>6 Q. Okay. And do you recall how you</p> <p>7 learned about that settlement?</p> <p>8 MR. TAYLOR: Objection to the extent</p> <p>9 it invades any attorney-client privilege.</p> <p>10 A. I learned about it after it was</p> <p>11 done.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Okay. And do you have an</p> <p>14 understanding of the basic terms of the</p> <p>15 settlement?</p> <p>16 A. I think that was the hundred</p> <p>17 thousand I spoke of earlier that the – as the</p> <p>18 11 or \$12 million of overbilling that every</p> <p>19 other entity has pursued, you know, for – the</p> <p>20 overbilling was traded for a hundred thousand</p> <p>21 dollars, and the – I think Grant agreed to not</p> <p>22 pursue some historic actions and not pursue</p> <p>23 replacement of HCMLP as manager, regardless of</p> <p>24 whether it was in the best interest of the DAF</p> <p>25 or not.</p>
<p>Page 334</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. And did you ever have a conversation</p> <p>3 with Mr. Scott about his decision to enter into</p> <p>4 that settlement on behalf of CLO HoldCo, Ltd.?</p> <p>5 A. Yes.</p> <p>6 Q. And did that – did the</p> <p>7 communications take place in one conversation,</p> <p>8 more than one conversation, or in some other</p> <p>9 form?</p> <p>10 A. It was a couple times.</p> <p>11 Q. Do you recall if anybody –</p> <p>12 (Simultaneous conversation.)</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. I'm sorry, were you finished?</p> <p>15 A. It might have been just once, but</p> <p>16 either one or two times.</p> <p>17 Q. Okay. And did anybody participate</p> <p>18 in that conversation other than the two of you?</p> <p>19 A. No.</p> <p>20 Q. Can you recall everything that was</p> <p>21 discussed during that conversation, everything</p> <p>22 that you recall saying in sum or substance and</p> <p>23 everything that you can recall Mr. Scott</p> <p>24 saying?</p> <p>25 A. My message was what I just</p>	<p>Page 335</p> <p>1 Dondero - 6-1-2021</p> <p>2 articulated, that – that the compromise or the</p> <p>3 settlement wasn't in the best interest of the</p> <p>4 DAF, it wasn't in the best interest of the</p> <p>5 investments in the DAF.</p> <p>6 Q. Do you recall how long the</p> <p>7 conversation lasted?</p> <p>8 A. No. It wasn't that long.</p> <p>9 Q. Do you recall that shortly after</p> <p>10 Mr. Scott reached the settlement on behalf of</p> <p>11 CLO HoldCo, that he gave notice of his intent</p> <p>12 to resign from his positions with the DAF</p> <p>13 entities and CLO HoldCo, Ltd.?</p> <p>14 A. Yes.</p> <p>15 Q. And do you recall that there was a</p> <p>16 telephone conversation between and among you</p> <p>17 and Mr. Scott and certain lawyers at around the</p> <p>18 same time?</p> <p>19 A. I don't – I don't remember that</p> <p>20 specifically with the lawyers.</p> <p>21 MR. MORRIS: Can we please put up</p> <p>22 the next exhibit, which I think we're</p> <p>23 marking as Exhibit 4, which is Scott Bates</p> <p>24 No. 11?</p> <p>25 (Exhibit 4 introduced.)</p>

<p>Page 336</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. So, I'll represent to you,</p> <p>4 Mr. Dondero, that the hearing at which the CLO</p> <p>5 HoldCo, Ltd., settlement was presented took</p> <p>6 place on January 26th. And so, this is the</p> <p>7 following Sunday.</p> <p>8 And do you see there's a list of</p> <p>9 people who were going to participate in a</p> <p>10 conference call on Sunday, January 31st?</p> <p>11 A. Yes.</p> <p>12 Q. And you and Mr. Scott are among</p> <p>13 those people?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall if this phone call</p> <p>16 took place?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall the purpose of the</p> <p>19 phone call?</p> <p>20 A. Yes. It didn't have anything to do</p> <p>21 with his resignation, this phone call.</p> <p>22 Q. So, what was the purpose of this</p> <p>23 call?</p> <p>24 A. Earlier, I stated that to make – to</p> <p>25 pivot the plans or what he was – or to</p>	<p>Page 337</p> <p>1 Dondero - 6-1-2021</p> <p>2 withdraw without telling anybody, to reach</p> <p>3 settlements without telling anybody that had a</p> <p>4 material negative impact on the DAF was</p> <p>5 inappropriate. And I believe the purpose of</p> <p>6 this call was his representation that John Kane</p> <p>7 had, in fact, told everybody, so – but when I</p> <p>8 spoke with everybody else, everybody said he</p> <p>9 hadn't talked to them, and so to figure out –</p> <p>10 to try and figure out what the truth was, we</p> <p>11 had a conference call with everybody.</p> <p>12 Q. Did you figure out what the truth</p> <p>13 was during that conference call?</p> <p>14 MR. TAYLOR: Objection. I'm going</p> <p>15 to have to instruct the client not to</p> <p>16 answer. This was a conversation with</p> <p>17 attorneys that were acting in concert under</p> <p>18 joint-defense agreement, or at least had a</p> <p>19 common interest in litigation at that point</p> <p>20 in time.</p> <p>21 MR. MORRIS: I think it's a little</p> <p>22 late for that.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. And there's no lawyer for you on</p> <p>25 this call, at least that's identified on this</p>
<p>Page 338</p> <p>1 Dondero - 6-1-2021</p> <p>2 email string, correct?</p> <p>3 MR. TAYLOR: That's incorrect.</p> <p>4 You'll see – note that Judge Lynn's – why</p> <p>5 it was his email, I don't know, but Judge</p> <p>6 Lynn's email address is on there.</p> <p>7 MR. MORRIS: Okay. I think having</p> <p>8 told me the purpose of the call, I think he</p> <p>9 ought to be able to disclose what the</p> <p>10 result of the call was. So I'm going to</p> <p>11 ask my question again.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. And that is, did you learn the truth</p> <p>14 as to whether or not Mr. Kane had given advance</p> <p>15 notice to any of the lawyers on this email</p> <p>16 string about any of the decisions you're</p> <p>17 referring to?</p> <p>18 MR. TAYLOR: I'm going to renew my</p> <p>19 objection. You can answer the question,</p> <p>20 but I do want to state for the record we</p> <p>21 believe it's inappropriate and if brought</p> <p>22 up in later proceedings, we'll move to</p> <p>23 strike.</p> <p>24 A. None of the lawyers on this email or</p> <p>25 that participated in the call acknowledged any</p>	<p>Page 339</p> <p>1 Dondero - 6-1-2021</p> <p>2 advanced conversations with Kane.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Do you remember anything else about</p> <p>5 the phone call that's referred to on this</p> <p>6 exhibit?</p> <p>7 MR. TAYLOR: I'm just going to renew</p> <p>8 my objection.</p> <p>9 A. No.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. And do you recall that Mr. Scott</p> <p>12 gave notice of his intent to resign on the same</p> <p>13 day?</p> <p>14 A. I – I didn't know it was exactly</p> <p>15 the same day, but I knew it was on or around</p> <p>16 that time.</p> <p>17 Q. Okay.</p> <p>18 MR. MORRIS: Can we pull up the next</p> <p>19 exhibit, please, Exhibit Number 5, which is</p> <p>20 Bates stamped Scott 18 and start at the</p> <p>21 bottom.</p> <p>22 (Exhibit 5 introduced.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Do you recall receiving this email</p> <p>25 from Mr. Scott on January 31st, in the</p>

<p style="text-align: right;">Page 340</p> <p>1 Dondero - 6-1-2021</p> <p>2 afternoon?</p> <p>3 A. Yes.</p> <p>4 Q. Do you know why Mr. Scott gave</p> <p>5 notice of his resignation at that time?</p> <p>6 MR. TAYLOR: Objection, calls for</p> <p>7 speculation.</p> <p>8 A. No. It – you would have to</p> <p>9 answer – I have my own speculation, but you</p> <p>10 would have to ask him.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you ever have a conversation</p> <p>13 with Mr. Scott where he informed you of the</p> <p>14 reasons for his decision to give notice of his</p> <p>15 resignation?</p> <p>16 MR. TAYLOR: Objection, calls for</p> <p>17 hearsay.</p> <p>18 A. I knew he was suffering from anxiety</p> <p>19 and health issues regarding the challenges and</p> <p>20 the confrontation.</p> <p>21 MR. MORRIS: I move to strike.</p> <p>22 I just want you to listen carefully</p> <p>23 to my question, sir.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Did Mr. Scott tell you why he had</p>	<p style="text-align: right;">Page 341</p> <p>1 Dondero - 6-1-2021</p> <p>2 decided to give notice of his intent to resign?</p> <p>3 MR. TAYLOR: Objection, calls for</p> <p>4 hearsay.</p> <p>5 A. He told me he was suffering from</p> <p>6 health and anxiety issues regarding the</p> <p>7 confrontation and the challenges of</p> <p>8 administering the DAF, given the bankruptcy.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. I'm sorry, did you use the word</p> <p>11 "confrontation"?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have an understanding as to</p> <p>14 what confrontation he was referring to?</p> <p>15 MR. TAYLOR: Objection, calls for</p> <p>16 speculation.</p> <p>17 A. I believe it was the interaction,</p> <p>18 challenges of dealing with your firm.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Did you have any advanced notice</p> <p>21 that Mr. Scott would be sending this email to</p> <p>22 you?</p> <p>23 A. Not exactly. But a couple days</p> <p>24 beforehand, he did propose it, that he was</p> <p>25 considering resigning.</p>
<p style="text-align: right;">Page 342</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Did you ever ask him to reconsider?</p> <p>3 A. No.</p> <p>4 Q. You'll see in the third paragraph,</p> <p>5 he states, quote: My resignation will not be</p> <p>6 effective until I approve of the</p> <p>7 indemnification provisions and obtain any and</p> <p>8 all necessary releases.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Did he ever explain to you why his</p> <p>12 release wouldn't become – his resignation</p> <p>13 wouldn't become effective until those things</p> <p>14 happened?</p> <p>15 MR. TAYLOR: Objection, calls for</p> <p>16 hearsay.</p> <p>17 A. No.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Did he ever tell you who he wanted a</p> <p>20 release from?</p> <p>21 MR. TAYLOR: Objection, calls for</p> <p>22 hearsay.</p> <p>23 A. No.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Do you know if there is any</p>	<p style="text-align: right;">Page 343</p> <p>1 Dondero - 6-1-2021</p> <p>2 agreement today that relates to the</p> <p>3 indemnification and release provisions cited in</p> <p>4 Mr. Scott's email?</p> <p>5 MR. SBAITI: Objection, calls for a</p> <p>6 legal conclusion, lacks foundation, lacks</p> <p>7 relevance.</p> <p>8 A. There's no new agreement that I'm</p> <p>9 aware of. There's an existing agreement from</p> <p>10 when he was originally put in place.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you ask for Mr. Scott's</p> <p>13 resignation?</p> <p>14 A. No.</p> <p>15 Q. Did Mr. Scott or anybody acting on</p> <p>16 his behalf ever explain to you or anybody</p> <p>17 acting on your behalf why he wanted the</p> <p>18 indemnification and release provisions?</p> <p>19 MR. TAYLOR: Objection, hearsay.</p> <p>20 A. No.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Did you ever say or suggest to</p> <p>23 Mr. Scott that he had breached his fiduciary</p> <p>24 duties to anybody at any time?</p> <p>25 A. I – I don't – I don't remember if</p>

<p style="text-align: right;">Page 344</p> <p>1 Dondero - 6-1-2021</p> <p>2 I spoke to anybody else about it.</p> <p>3 Q. I'm just asking if you ever – if</p> <p>4 you or anybody on your behalf ever told that to</p> <p>5 Mr. Scott or anybody acting on Mr. Scott's</p> <p>6 behalf, like Mr. Kane.</p> <p>7 MR. SBAITI: Objection, compound.</p> <p>8 A. I – I believe I testified already</p> <p>9 that I told him he didn't do what was in the</p> <p>10 best interest of the fund.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. And did you ever tell him, in sum or</p> <p>13 substance, that you believed he had breached</p> <p>14 his fiduciary duties to anybody in the world by</p> <p>15 not acting in the best interest of the fund?</p> <p>16 MR. SBAITI: Objection, vague.</p> <p>17 A. I don't recall if I had those</p> <p>18 discussions with somebody else. I mean – no,</p> <p>19 that's – I don't – I don't recall if I've had</p> <p>20 those conversations with anybody else.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Did you ever threaten to sue</p> <p>23 Mr. Scott?</p> <p>24 A. Did I – no.</p> <p>25 Q. Did you ever tell Mr. Scott that you</p>	<p style="text-align: right;">Page 345</p> <p>1 Dondero - 6-1-2021</p> <p>2 were considering suing him?</p> <p>3 A. I remember telling him he needed to</p> <p>4 do what was in the best interest of the funds.</p> <p>5 That's – that's as far as I remember.</p> <p>6 Q. Did you ever tell Mr. Scott that you</p> <p>7 believed that the fund had claims against him?</p> <p>8 A. I believe anytime you're a trustee</p> <p>9 and you don't do what's in the best interest of</p> <p>10 the funds, you leave yourself open for that,</p> <p>11 potentially.</p> <p>12 Q. I appreciate that that's your</p> <p>13 perspective, but I'm asking you whether you</p> <p>14 ever told Mr. Scott that you believed that the</p> <p>15 fund could assert claims against him.</p> <p>16 A. I don't recall that.</p> <p>17 Q. Do you recall if you ever told</p> <p>18 Mr. Scott that you believed the fund should</p> <p>19 assert claims against him?</p> <p>20 A. No, I don't recall that.</p> <p>21 Q. Okay. Did you ever tell Mr. Scott</p> <p>22 that you believed anybody in the world had</p> <p>23 potential causes of action against him for</p> <p>24 actions or inactions taken on behalf of the DAF</p> <p>25 or CLO HoldCo?</p>
<p style="text-align: right;">Page 346</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. SBAITI: Objection, vague.</p> <p>3 A. I don't recall that.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. What did you do after you received</p> <p>6 this email?</p> <p>7 Withdrawn.</p> <p>8 Did you do anything in response to</p> <p>9 receiving this email?</p> <p>10 MR. TAYLOR: For the record, we're</p> <p>11 talking about Exhibit 5?</p> <p>12 MR. MORRIS: Yes, I believe so.</p> <p>13 Is that right, La Asia?</p> <p>14 MR. TAYLOR: For that – sorry, 4.</p> <p>15 MS. CANTY: I'm sorry, John. Repeat</p> <p>16 that.</p> <p>17 MR. MORRIS: Is this document on the</p> <p>18 screen Exhibit 5?</p> <p>19 MS. CANTY: It's going to be</p> <p>20 Exhibit 5, but what we had – we had</p> <p>21 premarked them. So, we skipped one in</p> <p>22 sequence. So, when I upload it, it will be</p> <p>23 5.</p> <p>24 MR. MORRIS: Okay. Thank you.</p> <p>25 MS. CANTY: You're welcome.</p>	<p style="text-align: right;">Page 347</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. MORRIS: Yes, Clay, we're going</p> <p>3 to – ultimately, this will be marked as</p> <p>4 Exhibit 5.</p> <p>5 MR. TAYLOR: Thank you.</p> <p>6 MR. MORRIS: Yeah.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. So, the question, Mr. Dondero, is:</p> <p>9 Do you recall doing anything after receiving</p> <p>10 this email?</p> <p>11 MR. TAYLOR: Objection, vague.</p> <p>12 A. I don't remember doing anything with</p> <p>13 it. I – I didn't know what to do with it. I</p> <p>14 didn't know how the DAF structure worked when</p> <p>15 there was a resignation.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Did you ask Mr. Scott why he chose</p> <p>18 to send it to you?</p> <p>19 A. No.</p> <p>20 Q. Did you forward it to anybody?</p> <p>21 A. I don't recall.</p> <p>22 Q. Did you notify anybody that you had</p> <p>23 received this?</p> <p>24 A. I – I don't remember.</p> <p>25 MR. MORRIS: Can we scroll up to</p>

<p style="text-align: right;">Page 348</p> <p>1 Dondero - 6-1-2021</p> <p>2 Mr. Dondero's response?</p> <p>3 (Scrolling.)</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. You can see --</p> <p>6 MR. MORRIS: That's perfect right</p> <p>7 there.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. You can see in the first sentence of</p> <p>10 Mr. Scott's email there's a reference to</p> <p>11 resigning and divesting. Do you see that? I'm</p> <p>12 summarizing.</p> <p>13 A. Yes.</p> <p>14 Q. And you responded, and you requested</p> <p>15 clarification that -- the next morning; is that</p> <p>16 fair?</p> <p>17 That's the first question.</p> <p>18 A. Yes.</p> <p>19 Q. And then you tried to explain to</p> <p>20 Mr. Scott what your view was of the phrase</p> <p>21 "divestment" or "divest."</p> <p>22 Do I have that right?</p> <p>23 A. Yes. Divest has a different meaning</p> <p>24 in investments than it does, I guess, in legal</p> <p>25 structuring; and I just wanted to make sure</p>	<p style="text-align: right;">Page 349</p> <p>1 Dondero - 6-1-2021</p> <p>2 you -- you didn't mean liquidation of the</p> <p>3 assets.</p> <p>4 Q. Okay. That's what I'm getting to.</p> <p>5 MR. MORRIS: So can we scroll up to</p> <p>6 Mr. Scott's response?</p> <p>7 (Scrolling.)</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. And Mr. Scott tried to clarify why</p> <p>10 he -- he used the word "divest." Do you see</p> <p>11 that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: And then if we can</p> <p>15 scroll up to your response.</p> <p>16 (Scrolling.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see your response says: What</p> <p>19 does that mean? Quote, you need to tell me</p> <p>20 ASAP that you have no intent to divest assets.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Why did you write that?</p> <p>24 A. It was unpredictable -- some of his</p> <p>25 behavior was unpredictable at this point. I</p>
<p style="text-align: right;">Page 350</p> <p>1 Dondero - 6-1-2021</p> <p>2 just wanted to make sure he wasn't liquidating</p> <p>3 or intending to liquidate the portfolio.</p> <p>4 Q. What interest did you have in making</p> <p>5 sure that Mr. Scott didn't liquidate the</p> <p>6 portfolio?</p> <p>7 A. It could materially damage the value</p> <p>8 of the DAF and its ability to continue its</p> <p>9 mission as a charitable entity.</p> <p>10 Q. Had Mr. Scott ever divested assets</p> <p>11 before?</p> <p>12 MR. TAYLOR: Objection, vague.</p> <p>13 A. Well, by giving up the</p> <p>14 11 million-dollar disclaim against the debtor,</p> <p>15 he divested an 11 million-dollar asset.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Anything else?</p> <p>18 A. Not that I can recall.</p> <p>19 Q. When was the last time you</p> <p>20 communicated with Mr. Scott?</p> <p>21 A. I sent him a Happy Birthday text a</p> <p>22 couple days ago.</p> <p>23 Q. And when was the last time you spoke</p> <p>24 with him?</p> <p>25 A. It's been a couple months.</p>	<p style="text-align: right;">Page 351</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Is the last time you spoke to him at</p> <p>3 around the time that he gave notice of his</p> <p>4 intent to resign?</p> <p>5 A. No. It was about a month after</p> <p>6 that.</p> <p>7 Q. Mr. Patrick replaced Mr. Scott as</p> <p>8 the managing member of the DAF GP and as the</p> <p>9 director of the affiliated DAF entities and CLO</p> <p>10 HoldCo, correct?</p> <p>11 MR. SBAITL: Objection --</p> <p>12 (Audio distortion.)</p> <p>13 A. Ultimately, yes.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Do you know how Mr. Patrick came to</p> <p>16 replace Mr. Scott?</p> <p>17 MR. TAYLOR: Objection to the extent</p> <p>18 it calls for a legal conclusion.</p> <p>19 A. I -- I found out about it after it</p> <p>20 happened, you know, only from things that Mark</p> <p>21 Patrick told me.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Did you know that it was going to</p> <p>24 happen before the event occurred, before the</p> <p>25 actual replacement occurred?</p>

<p style="text-align: right;">Page 352</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. TAYLOR: Objection, relevance.</p> <p>3 A. No.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Do you know who – who gave</p> <p>6 Mr. Patrick – withdrawn.</p> <p>7 Do you know anything about the</p> <p>8 circumstances by which Mr. Patrick replaced</p> <p>9 Mr. Scott?</p> <p>10 A. I – only from conversations with</p> <p>11 Mark Patrick after the fact.</p> <p>12 Q. What did Mr. Patrick tell you?</p> <p>13 MR. TAYLOR: Objection, hearsay.</p> <p>14 A. He had struggled to – he had</p> <p>15 struggled to find other candidates or entities.</p> <p>16 He had struggled with D&O insurance around some</p> <p>17 of the alternative candidates.</p> <p>18 And one day, when he was talking to</p> <p>19 Grant Scott, they came to some – I don't know</p> <p>20 who said what to who, but that – why doesn't</p> <p>21 Mark Patrick do it and he has knowledge of the</p> <p>22 structure, he enjoys the charitable giving</p> <p>23 part.</p> <p>24 And unbeknownst to me, they agreed,</p> <p>25 and he sent over the appropriate documentation</p>	<p style="text-align: right;">Page 353</p> <p>1 Dondero - 6-1-2021</p> <p>2 or transfer of shares of voting–again, I don't</p> <p>3 know how it works specifically–and Grant</p> <p>4 signed it, and Mark Patrick became the trustee.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. So, it's your testimony that, prior</p> <p>7 to the time they signed the documentation</p> <p>8 pursuant to which Patrick replaced Scott, you</p> <p>9 had no knowledge that there were discussions</p> <p>10 underway pursuant to which that would occur?</p> <p>11 A. Correct.</p> <p>12 Q. You mentioned that Mr. Patrick told</p> <p>13 you that they had trouble getting D&O</p> <p>14 insurance.</p> <p>15 Do I have that right?</p> <p>16 A. That was – yeah, that was one of</p> <p>17 the factors with a couple of the candidates.</p> <p>18 Q. And did he tell you who those</p> <p>19 candidates were?</p> <p>20 MR. TAYLOR: Objection, hearsay.</p> <p>21 A. He did at the time. I can't</p> <p>22 remember who they were. One was – one was a</p> <p>23 former Dean Foods executive, I believe; and the</p> <p>24 other was an offshore sole practitioner.</p> <p>25 BY MR. MORRIS:</p>
<p style="text-align: right;">Page 354</p> <p>1 Dondero - 6-1-2021</p> <p>2 Q. Did he tell you what the</p> <p>3 difficulties were in obtaining D&O insurance?</p> <p>4 A. No.</p> <p>5 Q. Did you ask?</p> <p>6 A. No.</p> <p>7 Q. Do you know where Mr. Patrick got</p> <p>8 the authority to – withdrawn.</p> <p>9 Do you know who determined to</p> <p>10 replace Mr. Scott with Mr. Patrick?</p> <p>11 MR. TAYLOR: Objection to the extent</p> <p>12 it calls for a legal conclusion.</p> <p>13 A. As I testified, I believe it was the</p> <p>14 two of them together.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. And do you have any understanding as</p> <p>17 to what authority they had to designate</p> <p>18 Mr. Scott's successor?</p> <p>19 MR. TAYLOR: Objection, calls for a</p> <p>20 legal conclusion.</p> <p>21 A. I – I believed, between the two of</p> <p>22 them, they knew how the structure worked, and I</p> <p>23 believed between the two of them, they had</p> <p>24 authority – believed they had authority, and</p> <p>25 that's why they effectuated it.</p>	<p style="text-align: right;">Page 355</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. Was Mr. Patrick ever employed</p> <p>4 by HCMLP?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know what period of time he</p> <p>7 was employed by HCMLP?</p> <p>8 A. He's been there for quite a while.</p> <p>9 I mean, he was there for quite a while. I</p> <p>10 believe over a decade.</p> <p>11 Q. And what positions did he hold, if</p> <p>12 you recall?</p> <p>13 A. He headed up our tax department. I</p> <p>14 don't remember him having any position other</p> <p>15 than that or before that.</p> <p>16 Q. Is he a lawyer, to the best of your</p> <p>17 knowledge?</p> <p>18 A. He's – he's a tax lawyer, yeah.</p> <p>19 Q. And do you know if he's employed</p> <p>20 today?</p> <p>21 A. I – yes.</p> <p>22 Q. Do you know where he's employed?</p> <p>23 A. Yes.</p> <p>24 Q. Where do you understand Mr. Patrick</p> <p>25 is employed?</p>

<p>Page 356</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. At SkyBridge.</p> <p>3 Q. Do you know where SkyBridge's</p> <p>4 offices are located?</p> <p>5 A. Yes.</p> <p>6 Q. Where are they located?</p> <p>7 A. On McKinney Avenue. I believe it's</p> <p>8 2515.</p> <p>9 Q. Is that the same suite of offices</p> <p>10 where your office is located?</p> <p>11 MR. SBAITl: Objection, vague.</p> <p>12 A. It's not the same floor. We – we</p> <p>13 left, as you know, the Highland offices</p> <p>14 suddenly, and so until we establish permanent</p> <p>15 office locations, they're located there, but I</p> <p>16 expect they will be relocating in the</p> <p>17 not-too-distant future.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Did you have any discussions with</p> <p>20 Mr. Patrick concerning the positions he was</p> <p>21 inheriting from Mr. Scott before he agreed to</p> <p>22 accept them?</p> <p>23 A. No.</p> <p>24 Q. Do you have any written or oral</p> <p>25 agreements with Mr. Patrick of any kind?</p>	<p>Page 357</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. SBAITl: Objection –</p> <p>3 MR. TAYLOR: Objection, vague.</p> <p>4 A. Yeah, not that I know of, but I'm</p> <p>5 not sure what you're asking.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. All right. Do you have any written</p> <p>8 oral agreements of any kind with Mr. Patrick</p> <p>9 pertaining to his role as an authorized</p> <p>10 representative of any of the DAF entities or</p> <p>11 CLO HoldCo, Ltd.?</p> <p>12 MR. TAYLOR: Objection, vague.</p> <p>13 A. I do not, no.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Do you know if Mr. Patrick has any</p> <p>16 agreement with any of the DAF entities or CLO</p> <p>17 HoldCo, Ltd., other than those set forth in the</p> <p>18 limited partnership agreement and the Amended</p> <p>19 and Restated Limited Liability Company</p> <p>20 Agreement for the general partnership?</p> <p>21 A. I don't know of any.</p> <p>22 Q. Okay. So, there was almost a</p> <p>23 two-year period between the date that Mr. Scott</p> <p>24 sent his notice to you of his intent to resign</p> <p>25 and Mr. Patrick's replacement of Mr. Scott at</p>
<p>Page 358</p> <p>1 Dondero - 6-1-2021</p> <p>2 the end of March. Do I have that right?</p> <p>3 MR. TAYLOR: Objection. I think you</p> <p>4 said two-year period.</p> <p>5 MR. MORRIS: If I did, let me</p> <p>6 restate it.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. There was approximately a two-month</p> <p>9 period between the time that Mr. Scott sent his</p> <p>10 notice to you of his intention to resign and</p> <p>11 Mr. Patrick's replacement at the end of</p> <p>12 March 2021. Do I have that right?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Are you aware that during</p> <p>15 that interim period, Mr. Patrick gave certain</p> <p>16 instructions to Mr. Scott?</p> <p>17 MR. TAYLOR: Objection, calls for</p> <p>18 hearsay.</p> <p>19 MR. SBAITl: Lacks foundation.</p> <p>20 A. I – I don't know specifically.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you know generally? Are you</p> <p>23 aware of any instructions that Mr. –</p> <p>24 withdrawn.</p> <p>25 Can I call that period between</p>	<p>Page 359</p> <p>1 Dondero - 6-1-2021</p> <p>2 January 31st and the time that Mr. Patrick</p> <p>3 formally replaced Mr. Scott as "the interim</p> <p>4 period"? Is that okay?</p> <p>5 A. Sure.</p> <p>6 Q. Okay. Did you ever learn at any</p> <p>7 time during the interim period that Mr. Patrick</p> <p>8 was giving Mr. Scott instructions with respect</p> <p>9 to the duties and responsibilities concerning</p> <p>10 the DAF and CLO HoldCo?</p> <p>11 MR. SBAITl: Objection, assumes</p> <p>12 facts not in evidence.</p> <p>13 A. Not that I recall.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Okay. Did you communicate with</p> <p>16 Mr. Scott at all during the interim period</p> <p>17 other than the birthday text that you</p> <p>18 mentioned?</p> <p>19 MR. SBAITl: Objection, misstates</p> <p>20 testimony.</p> <p>21 A. I don't – I don't recall. I mean,</p> <p>22 I know I've had some conversations with him,</p> <p>23 yeah, about that – I have a house in Aspen</p> <p>24 but – and we had some conversations about</p> <p>25 Aspen and skiing and stuff like that, but I</p>

<p>Page 360</p> <p>1 Dondero - 6-1-2021</p> <p>2 don't remember – I don't remember</p> <p>3 specifically –</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Did – did –</p> <p>6 A. – anything else.</p> <p>7 Q. – Mr. Patrick –</p> <p>8 I apologize, Mr. Dondero. Were you</p> <p>9 finished?</p> <p>10 A. Yeah, I'm done.</p> <p>11 Q. Okay. Did Mr. Patrick inform you of</p> <p>12 any issues that were being raised that needed</p> <p>13 to be addressed with Mr. Scott during the</p> <p>14 interim period?</p> <p>15 A. Not that I recall.</p> <p>16 Q. Did you ever instruct Mr. Patrick on</p> <p>17 what to tell Mr. Scott with respect to any</p> <p>18 matter concerning any of the DAF entities or</p> <p>19 CLO HoldCo during the interim period?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Are you familiar with the phrase</p> <p>22 "adherence agreement"?</p> <p>23 A. No.</p> <p>24 MR. MORRIS: Can we please put up</p> <p>25 the next exhibit, which we'll mark as</p>	<p>Page 361</p> <p>1 Dondero - 6-1-2021</p> <p>2 Exhibit 6, Grant Scott, beginning at Bates</p> <p>3 No. 85.</p> <p>4 (Exhibit 6 introduced.)</p> <p>5 MR. MORRIS: And if we could –</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Did you ever learn that there was a</p> <p>8 point in time when the debtor was requesting</p> <p>9 that CLO HoldCo, Ltd., enter into an adherence</p> <p>10 agreement?</p> <p>11 A. No.</p> <p>12 MR. MORRIS: Can we scroll up a</p> <p>13 little bit, please?</p> <p>14 (Scrolling.)</p> <p>15 MR. MORRIS: And just a little</p> <p>16 further.</p> <p>17 (Scrolling.)</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. And do you see that Grant Scott</p> <p>20 forwards it to Mark Patrick and says, "This</p> <p>21 relates to the second issue from the debtor"?</p> <p>22 A. Yes.</p> <p>23 MR. MORRIS: And can you scroll up a</p> <p>24 little more?</p> <p>25 (Scrolling.)</p>
<p>Page 362</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. And you see Mr. Patrick's</p> <p>4 instruction, "Do not sign the adherence</p> <p>5 agreement from the debtor. The successor will</p> <p>6 address this"?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have any knowledge that</p> <p>9 Mr. Patrick instructed Mr. Scott on March 2nd,</p> <p>10 2001, not to sign an adherence agreement from</p> <p>11 the debtor?</p> <p>12 A. I have no knowledge prior to this.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: Can you scroll to the</p> <p>15 top?</p> <p>16 (Scrolling.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see Mr. Patrick further</p> <p>19 instructed Mr. Scott on March 2nd to, quote,</p> <p>20 "Stand down on any communication," close quote?</p> <p>21 A. Yes.</p> <p>22 Q. Were you aware that Mr. Patrick had</p> <p>23 instructed Mr. Scott to stand down?</p> <p>24 A. No.</p> <p>25 Q. Did you ever tell Mr. Patrick to</p>	<p>Page 363</p> <p>1 Dondero - 6-1-2021</p> <p>2 instruct Mr. Scott to stand down?</p> <p>3 A. No.</p> <p>4 Q. Do you have any understanding as to</p> <p>5 where Mr. Patrick obtained the authority to</p> <p>6 instruct Mr. Scott to stand down?</p> <p>7 MR. SBAITI: Objection, vague,</p> <p>8 assumes facts not in evidence.</p> <p>9 A. I – I wouldn't view it as an</p> <p>10 authority issue. I think they had a long-term</p> <p>11 relationship, friendship, working relationship</p> <p>12 with regard to the DAF; and I think Mark was</p> <p>13 giving him advice.</p> <p>14 MR. MORRIS: Okay. It's 12:20 New</p> <p>15 York time. I'd like to just take a short</p> <p>16 break until 12:30, and I shouldn't have too</p> <p>17 much more left.</p> <p>18 MR. TAYLOR: Okay.</p> <p>19 (Recess held 11:19a-11:31a.)</p> <p>20 MR. MORRIS: Okay. Hopefully just</p> <p>21 15 or 20 minutes more. A half hour at</p> <p>22 most, I promise.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Are you ready to proceed,</p> <p>25 Mr. Dondero?</p>

<p>Page 364</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. Yes.</p> <p>3 Q. You've told me that you expressed to</p> <p>4 Mr. Scott--and I'm, you know,</p> <p>5 paraphrasing--that you expressed to Mr. Scott</p> <p>6 your concerns with respect to his -- certain of</p> <p>7 the decisions that he made during the course of</p> <p>8 the bankruptcy.</p> <p>9 Do I have that right? Is that fair?</p> <p>10 A. Yes.</p> <p>11 Q. Do you know whether anybody else</p> <p>12 besides yourself expressed any concerns to</p> <p>13 Mr. Scott concerning any of the decisions that</p> <p>14 he made during the post-petition period?</p> <p>15 MR. SBAITI: Objection, vague.</p> <p>16 A. I -- I don't recall.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Are you aware of anybody other than</p> <p>19 yourself telling Mr. Scott, in sum or</p> <p>20 substance, that any of the decisions he made</p> <p>21 post-petition were inappropriate or not in the</p> <p>22 best interests of the DAF or CLO HoldCo, Ltd.?</p> <p>23 A. I don't know.</p> <p>24 Q. Okay. You're not aware of anybody;</p> <p>25 is that fair?</p>	<p>Page 365</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. Not as I sit here today.</p> <p>3 Q. Okay. We talked earlier about the</p> <p>4 suggestion -- and again, if I get this wrong,</p> <p>5 just correct me.</p> <p>6 But I think you testified that</p> <p>7 implicit in your conversations with Mr. Scott</p> <p>8 was your belief that he wasn't acting in the</p> <p>9 best interests of the DAF and CLO HoldCo, Ltd.,</p> <p>10 and had breached his fiduciary duties; is that</p> <p>11 fair?</p> <p>12 A. I think I testified that I didn't</p> <p>13 use the word "fiduciary duties" but -- I don't</p> <p>14 recall using those words, but I do recall</p> <p>15 stating that he was making decisions that</p> <p>16 weren't in the best interest of the fund.</p> <p>17 Q. Okay. And I appreciate the</p> <p>18 clarification and -- I appreciate the</p> <p>19 clarification.</p> <p>20 Do you have your own personal belief</p> <p>21 as to whom Mr. Scott owed fiduciary duties to?</p> <p>22 MR. SBAITI: Objection, vague.</p> <p>23 MR. MORRIS: Withdrawn.</p> <p>24 I'm going to try and do this a</p> <p>25 different way.</p>
<p>Page 366</p> <p>1 Dondero - 6-1-2021</p> <p>2 Ms. Canty, can we please put back up</p> <p>3 on the screen Exhibit 1?</p> <p>4 (Exhibit 1 on the screen.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Can you see that, sir?</p> <p>7 A. Yes.</p> <p>8 Q. Is there any entity on this</p> <p>9 Exhibit 1 that you do not believe Mr. Scott</p> <p>10 owed a fiduciary duty to prior to the time of</p> <p>11 his resignation in late March 2021?</p> <p>12 MR. SBAITI: Object to the extent it</p> <p>13 calls for a legal conclusion.</p> <p>14 A. Yeah. I -- I can't answer that</p> <p>15 question.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Well, do you believe that Mr. Scott</p> <p>18 owed a fiduciary duty to the three entities</p> <p>19 that have in their name "Charitable DAF"?</p> <p>20 MR. SBAITI: Same objection.</p> <p>21 A. Again, regardless of where the</p> <p>22 assets are held, he has a responsibility, in my</p> <p>23 mind, as the trustee or the managing member, to</p> <p>24 optimize those assets and protect those assets</p> <p>25 and to efficiently, effectively administer</p>	<p>Page 367</p> <p>1 Dondero - 6-1-2021</p> <p>2 expenses.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. I appreciate that. I'm just asking</p> <p>5 you to whom he owes the duty to do those</p> <p>6 things, if you have an understanding. I'm</p> <p>7 just -- I'm not asking for a legal conclusion.</p> <p>8 I'm asking you if you have an understanding as</p> <p>9 to whom he owes those duties.</p> <p>10 A. Not specifically.</p> <p>11 Q. Okay. Did you ever discuss at any</p> <p>12 time with Mr. Patrick your views concerning</p> <p>13 Mr. Scott's decision to withdraw the objection</p> <p>14 to the HarbourVest Settlement?</p> <p>15 MR. SBAITI: Objection, vague, lacks</p> <p>16 foundation.</p> <p>17 A. I don't -- I don't specifically</p> <p>18 recall. It's -- I'm willing to be refreshed,</p> <p>19 but I -- I don't specifically recall, but</p> <p>20 that's -- yeah, I don't specifically recall.</p> <p>21 It's not -- I don't want to speculate.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. I don't want you to speculate,</p> <p>24 either.</p> <p>25 Do you have any recollection of --</p>

<p>Page 368</p> <p>1 Dondero - 6-1-2021</p> <p>2 at all of ever discussing with Mr. Patrick your</p> <p>3 views as to Mr. Scott's decision to withdraw</p> <p>4 the objection to the HarbourVest Settlement?</p> <p>5 MR. TAYLOR: Objection, asked and</p> <p>6 answered.</p> <p>7 A. Yeah, I don't recall.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Did you – do you have any</p> <p>10 recollection at all of ever discussing with</p> <p>11 Mr. Patrick your views concerning Mr. Scott's</p> <p>12 decision to enter into the settlement agreement</p> <p>13 on behalf of CLO HoldCo?</p> <p>14 A. I don't recall.</p> <p>15 Q. I'm sorry. Are you – yeah, are you</p> <p>16 aware that CLO HoldCo and the DAF, Ltd.,</p> <p>17 commenced the lawsuit against the debtor and</p> <p>18 others in the United States District Court for</p> <p>19 the Northern District of Texas?</p> <p>20 A. Yes.</p> <p>21 Q. Okay.</p> <p>22 MR. MORRIS: Can we put that</p> <p>23 complaint up on the screen and mark it as</p> <p>24 Exhibit 7, I believe?</p> <p>25 (Exhibit 7 introduced.)</p>	<p>Page 369</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. I'll just represent to you that this</p> <p>4 is the first page of the complaint. If you</p> <p>5 need to refer to it for any purpose, just let</p> <p>6 me know.</p> <p>7 But I'm going to start with the</p> <p>8 question of, have you ever seen a copy of the</p> <p>9 complaint that was filed by the Charitable DAF</p> <p>10 Fund, L.P., and CLO HoldCo, Ltd., against the</p> <p>11 debtor and certain other entities?</p> <p>12 A. Yes.</p> <p>13 Q. When did you see the complaint for</p> <p>14 the first time, that you recall?</p> <p>15 MR. TAYLOR: Objection, vague.</p> <p>16 A. Near final versions before it was</p> <p>17 filed.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. So you saw – you saw versions of</p> <p>20 the complaint before it was filed. Do I have</p> <p>21 that right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Did you participate in any</p> <p>24 discussions concerning the substance of the</p> <p>25 complaint before it was filed?</p>
<p>Page 370</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. TAYLOR: I'm just going to</p> <p>3 caution the witness: You can tell him if</p> <p>4 you participated in any conversations; but</p> <p>5 to the extent that you had conversations</p> <p>6 with any attorneys who were acting as</p> <p>7 lawyers, please do not go into the</p> <p>8 substance of those conversations.</p> <p>9 A. Yeah. I mean, yes, I had</p> <p>10 conversations with attorneys.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Which attorneys did you speak with</p> <p>13 about this complaint before it was filed?</p> <p>14 A. Mazin. I can't remember – I can't</p> <p>15 remember – I talked to a lot of attorneys. I</p> <p>16 can't remember – I can't remember besides</p> <p>17 Mazin.</p> <p>18 Q. Okay. Now, Mazin doesn't represent</p> <p>19 you personally, does he?</p> <p>20 A. No.</p> <p>21 Q. Can you please tell me everything</p> <p>22 you discussed with Mazin concerning this</p> <p>23 complaint?</p> <p>24 MR. TAYLOR: Objection,</p> <p>25 attorney-client privilege.</p>	<p>Page 371</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. SBAITI: Well, I'm also – DAF</p> <p>3 is asserting work-product privilege and</p> <p>4 joint-interest privilege regarding</p> <p>5 communication through DAF with us.</p> <p>6 MR. MORRIS: I'm sorry. I'm sorry.</p> <p>7 I'm having a little trouble hearing you. I</p> <p>8 think I heard attorney work product. What</p> <p>9 over privileges are being asserted here?</p> <p>10 MR. SBAITI: Joint interest. As</p> <p>11 advisor to the DAF, he provided us some</p> <p>12 information that we used and helped us</p> <p>13 identify information that we were using.</p> <p>14 So, helping his advisee's counsel perform</p> <p>15 their duties falls under the work-product</p> <p>16 privilege. We're claiming work-product</p> <p>17 privilege over the content of his</p> <p>18 conversation.</p> <p>19 MR. MORRIS: Okay. Did I hear</p> <p>20 somebody say attorney-client privilege,</p> <p>21 too?</p> <p>22 MR. TAYLOR: I had said that, but I</p> <p>23 was just making sure that Mazin jumped in</p> <p>24 with his objections –</p> <p>25 (Whereupon, the court reporter's</p>

<p style="text-align: right;">Page 372</p> <p>1 Dondero - 6-1-2021</p> <p>2 computer crashed, calls were made, and an</p> <p>3 iPad was engaged to finish the deposition.)</p> <p>4 MR. MORRIS: All right.</p> <p>5 Mr. Dondero, can you hear me?</p> <p>6 THE WITNESS: Yes.</p> <p>7 MR. MORRIS: Mr. Court Reporter, can</p> <p>8 you hear me?</p> <p>9 THE REPORTER: Yes, sir.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Mr. Dondero, did you provide any</p> <p>12 comments to the Sbaiti firm on any draft of the</p> <p>13 complaint before it was filed?</p> <p>14 MR. SBAITI: You can answer that</p> <p>15 question yes or no. I'll just instruct the</p> <p>16 witness not to answer with any content of</p> <p>17 any kind on the basis – and we're</p> <p>18 instructing him not to answer on the basis</p> <p>19 of work-product privilege and</p> <p>20 joint-interest privilege.</p> <p>21 A. Some.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Can you disclose for me all of the</p> <p>24 information and comments you provided that –</p> <p>25 to the draft complaints?</p>	<p style="text-align: right;">Page 373</p> <p>1 Dondero - 6-1-2021</p> <p>2 MR. SBAITI: Instruct the witness</p> <p>3 not to answer on the basis of work-product</p> <p>4 privilege and joint-interest privilege.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Are you going to follow Counsel's</p> <p>7 advice, Mr. Dondero?</p> <p>8 A. Yes.</p> <p>9 Q. Did you provide any conceptual or</p> <p>10 strategic ideas about what claims to pursue to</p> <p>11 the Sbaiti firm prior to the time the complaint</p> <p>12 was filed?</p> <p>13 MR. SBAITI: Can you repeat the</p> <p>14 question?</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Did you provide any thoughts or</p> <p>17 ideas as to what claims should be pursued in</p> <p>18 this complaint prior to the time it was filed?</p> <p>19 MR. TAYLOR: I'm going to first</p> <p>20 lodge an objection as to vague, and I</p> <p>21 believe Mazin has some other objection.</p> <p>22 MR. SBAITI: Yeah. I would – I</p> <p>23 will say the same objection, and we will</p> <p>24 object to any content of the – within the</p> <p>25 attorney-client work-product and</p>
<p style="text-align: right;">Page 374</p> <p>1 Dondero - 6-1-2021</p> <p>2 joint-interest privilege.</p> <p>3 A. Not that I recall.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Did you provide any facts that are</p> <p>6 set forth in the complaint?</p> <p>7 Withdrawn.</p> <p>8 Did you – did you provide to the</p> <p>9 Sbaiti firm any facts that are reflected in the</p> <p>10 final version of the complaint?</p> <p>11 MR. SBAITI: Mr. Dondero, you can</p> <p>12 answer that question yes or no; otherwise,</p> <p>13 we instruct you not to answer on the basis</p> <p>14 of – the content on the basis of</p> <p>15 attorney-client, work-product and</p> <p>16 joint-interest privilege.</p> <p>17 A. Not that I recall.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. You don't recall providing any facts</p> <p>20 at all?</p> <p>21 A. Not specifically.</p> <p>22 Q. Did you provide any general facts or</p> <p>23 ideas to the Sbaiti firm in connection with</p> <p>24 your review of the drafts of the complaint?</p> <p>25 MR. SBAITI: Same instruction, same</p>	<p style="text-align: right;">Page 375</p> <p>1 Dondero - 6-1-2021</p> <p>2 objections.</p> <p>3 A. Maybe some.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Okay. Can you describe those for</p> <p>6 me, please?</p> <p>7 MR. SBAITI: I'll instruct you not</p> <p>8 to answer that on the basis of</p> <p>9 attorney-client work-product privilege and</p> <p>10 joint-interest privilege.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Are you going to follow Counsel's</p> <p>13 advice, Mr. Dondero?</p> <p>14 A. Yes.</p> <p>15 Q. Did you have any discussions with</p> <p>16 the Sbaiti firm concerning whether or not to</p> <p>17 name James Seery as a defendant in the original</p> <p>18 complaint?</p> <p>19 MR. SBAITI: I'll instruct the</p> <p>20 witness not to answer on the basis of</p> <p>21 attorney-client, work-product and</p> <p>22 joint-interest privilege as doing so would</p> <p>23 reveal the contents of such communication.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Can you just answer yes or no?</p>

<p style="text-align: right;">Page 376</p> <p>1 Dondero - 6-1-2021</p> <p>2 A. No.</p> <p>3 Q. You didn't have -- that wasn't part</p> <p>4 of any of the discussions you had prior to the</p> <p>5 time the complaint was filed?</p> <p>6 MR. SBAITI: Same instruction. Just</p> <p>7 don't answer.</p> <p>8 THE WITNESS: So please don't</p> <p>9 answer, right, or don't answer --</p> <p>10 MR. SBAITI: Don't answer.</p> <p>11 THE WITNESS: Okay.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Are you going to follow Counsel's</p> <p>14 advice?</p> <p>15 A. Yes.</p> <p>16 Q. Did you -- did you suggest that</p> <p>17 Mr. Seery should be named as a defendant in</p> <p>18 this lawsuit to the Sbaiti firm prior to the</p> <p>19 time it was filed?</p> <p>20 MR. SBAITI: Instruct the witness</p> <p>21 not to answer on the basis of</p> <p>22 attorney-client work product and</p> <p>23 joint-interest privilege, as doing so would</p> <p>24 reveal the contents of those</p> <p>25 communications.</p>	<p style="text-align: right;">Page 377</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Are you going to follow Counsel's</p> <p>4 advice?</p> <p>5 A. Yes.</p> <p>6 Q. Did you know, prior to the time the</p> <p>7 complaint was filed, that the Sbaiti firm</p> <p>8 intended to file a motion for leave to amend</p> <p>9 their complaint to add Mr. Seery as a</p> <p>10 defendant?</p> <p>11 MR. SBAITI: You can answer that</p> <p>12 question yes or no, but, otherwise, it will</p> <p>13 reveal the content of any underlying</p> <p>14 communication on the basis of</p> <p>15 attorney-client work product, or</p> <p>16 joint-interest privilege.</p> <p>17 A. No.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. When did you learn that the Sbaiti</p> <p>20 firm filed a motion for leave to amend their</p> <p>21 complaint to add Mr. Seery as a defendant?</p> <p>22 A. I don't -- I don't recall.</p> <p>23 Q. Do you recall whether you had any</p> <p>24 conversations with anybody in the world at any</p> <p>25 time prior to the time that motion was filed</p>
<p style="text-align: right;">Page 378</p> <p>1 Dondero - 6-1-2021</p> <p>2 regarding the possibility of filing a motion</p> <p>3 for leave to amend the pleading to add</p> <p>4 Mr. Seery as a defendant?</p> <p>5 MR. SBAITI: Objection, vague, lacks</p> <p>6 foundation; and instruct the witness not to</p> <p>7 reveal the content of any communications on</p> <p>8 the basis protected under the</p> <p>9 attorney-client, work-product,</p> <p>10 common-interest privilege.</p> <p>11 A. I don't recall.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Okay. Did you ever discuss with</p> <p>14 Mr. Patrick the topic of whether or not</p> <p>15 Mr. Seery should be sued?</p> <p>16 A. No.</p> <p>17 Q. Did you ever discuss with the Sbaiti</p> <p>18 firm the topic of whether Mr. Seery should be</p> <p>19 sued?</p> <p>20 MR. SBAITI: Instruct the witness</p> <p>21 not to answer on the basis of attorney work</p> <p>22 product -- attorney-client, and</p> <p>23 common-interest privilege as answering</p> <p>24 would reveal the contents of such</p> <p>25 communications, if they occurred.</p>	<p style="text-align: right;">Page 379</p> <p>1 Dondero - 6-1-2021</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Are you going to follow Counsel's</p> <p>4 advice?</p> <p>5 A. Yes.</p> <p>6 MR. MORRIS: I think I may be done.</p> <p>7 Can we just take a three-minute</p> <p>8 break and let me just check my notes?</p> <p>9 MR. SBAITI: Sure.</p> <p>10 (Recess held.)</p> <p>11 MR. MORRIS: All right. I have no</p> <p>12 further questions. I would request the</p> <p>13 production of a privilege log reflecting</p> <p>14 the communications, if any, between</p> <p>15 Mr. Dondero and the Sbaiti firm; but,</p> <p>16 otherwise, I have nothing further at this</p> <p>17 time.</p> <p>18 MR. SBAITI: Okay.</p> <p>19 MR. MORRIS: Again, I appreciate</p> <p>20 your time, Mr. Dondero.</p> <p>21 MR. SBAITI: We'll reserve our</p> <p>22 questions.</p> <p>23 MR. MORRIS: Okay. Thank you,</p> <p>24 everybody.</p> <p>25 MR. SBAITI: Thank you. Take care.</p>

Page 380

1 Dondero - 6-1-2021

2 THE REPORTER: Mr. Sbaiti, do you

3 guys need a copy of this deposition?

4 MR. SBAITI: Yeah, we would just

5 need a PTX of the deposition transcript and

6 soft copies of the exhibits. Are you going

7 to send something to the witness to read

8 and sign? I think you could send it to him

9 either directly or to Mr. Taylor on his

10 behalf.

11 (Time Noted: 12:01 p.m.)

12

13

14

15 JAMES DONDERO

16 Subscribed and sworn to before me

17 this ____ day of _____, 2021.

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Page 382

1 Dondero - 6-1-2021

2 ERRATA SHEET FOR THE TRANSCRIPT OF:

3 Case Name:

4 IN THE UNITED STATES BANKRUPTCY COURT

5 FOR THE NORTHERN DISTRICT OF TEXAS

6 DALLAS DIVISION

7 In re:)

8 HIGHLAND CAPITAL) Case No.

9 MANAGEMENT, LP,) 19-34054 L.P.

10 Debtor,) Chapter 11

11)

12 HIGHLAND CAPITAL MANAGEMENT,)

13 LP,)

14)

15 Plaintiff,) Adversary No.

16 vs.) 21-03003-sgi

17 JAMES D. DONDERO,)

18 Defendant.)

19 Dep. Date: 06/01/2021

20 Deponent: JAMES DONDERO

21

22 Reason codes:

23 1. To clarify the record.

24 2. To conform to the facts.

25 3. To correct transcription errors.

CORRECTIONS:

Pg.	LN.	Now Reads	Should Read	Reason
17	____	_____	_____	_____
18	____	_____	_____	_____
19	____	_____	_____	_____
20	____	_____	_____	_____
21	____	_____	_____	_____
22	____	_____	_____	_____
23	____	_____	_____	_____
24	____	_____	_____	_____
25	____	_____	_____	_____

Page 381

1 Dondero - 6-1-2021

2 CERTIFICATE

3 STATE OF TEXAS)

4)

5 COUNTY OF ELLIS)

6

7 I, Daniel J. Skur, a Notary Public

8 within and for the State of Texas, do

9 hereby certify:

10 That JAMES DONDERO, the witness whose

11 deposition is hereinbefore set forth, was

12 duly sworn by me and that such deposition

13 is a true record of the testimony given by

14 such witness.

15 That pursuant to Rule 30 of the Federal

16 Rules of Civil Procedure, signature of the

17 witness was reserved by the witness or

18 other party before the conclusion of the

19 deposition;

20 I further certify that I am not

21 related to any of the parties to this

22 action by blood or marriage; and that I am

23 in no way interested in the outcome of this

24 matter.

25 IN WITNESS WHEREOF, I have hereunto

set my hand this 1st day of June, 2021.

Daniel J. Skur
Notary Public, State of Texas.
My Commission Expires 7/7/2022
TSG Reporting, Inc.
228 East 45th Street, Suite 810
New York, New York
(877) 702-9580

Page 383

1 Dondero - 6-1-2021

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18 _____

19 JAMES DONDERO

20

21 SUBSCRIBED AND SWORN BEFORE ME

22 THIS ____ DAY OF _____, 2021.

23

24 _____

25 (Notary Public) MY COMMISSION EXPIRES: _____

<p>1 Dondero - 6-1-2021</p> <p>2 -----I N D E X-----</p> <p>3 WITNESS: EXAMINATION BY PAGE:</p> <p>4 JAMES DONDERO</p> <p>5 Mr. Morris 288</p> <p>6</p> <p>7 *****</p> <p>8 -----EXHIBITS-----</p> <p>9 Deposition Exhibits PAGE/LINE</p> <p>10 Exhibit 1 DAF/CLO Holder Structure 290/15</p> <p>Chart</p> <p>11 Bates No. GScott000007</p> <p>12 Exhibit 2 Amended and Restated 301/6</p> <p>Limited Liability Company</p> <p>13 Agreement of Charitable</p> <p>DAF GP, LLC</p> <p>14 Bates No. PATRICK_000031</p> <p>through 000035</p> <p>15</p> <p>16 Exhibit 3 Amended and Restated 313/14</p> <p>Investment Advisory</p> <p>17 Agreement</p> <p>Bates No. GScott000325</p> <p>through 000340</p> <p>18</p> <p>19 Exhibit 4 Phone Conference 335/25</p> <p>Invitation For 1/31/2021</p> <p>Bates No. GScott000011</p> <p>20</p> <p>21 Exhibit 5 January/February 2021 339/22</p> <p>Email String Regarding</p> <p>22 Notice of Intent to Resign</p> <p>and Divest From CLO</p> <p>23 HoldCo, Ltd., and Related</p> <p>Entities</p> <p>Bates No. GScott000018</p> <p>24 through 000019</p> <p>25</p>	<p>1 Dondero - 6-1-2021</p> <p>2 -----EXHIBITS-----</p> <p>3 Deposition Exhibits PAGE/LINE</p> <p>4 Exhibit 6 March 2021 Email String 361/4</p> <p>Regarding Highland</p> <p>5 Adherence Agreement</p> <p>(Highland CLO Funding) in</p> <p>6 Connection With Transfer</p> <p>of HarbourVest Shares</p> <p>7 Bates No. GScott000085</p> <p>through 000088</p> <p>8</p> <p>9 Exhibit 7 Original Complaint in Re: 368/25</p> <p>Charitable DAF Fund, L.P.</p> <p>and CLO HoldCo, Ltd., V</p> <p>10 Highland Capital</p> <p>Management, L.P. and</p> <p>11 Others</p> <p>Bates No. GScott000389</p> <p>12 through 000414</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Index: \$11..Asia

\$	228 381:20	356:1 357:1 358:1	365:8 370:6	23 313:17,22 314:14,
\$11 320:10	2515 356:8	359:1 360:1 361:1	action 345:23 381:12	23 315:2,5,12,14,19,
\$12 333:18	26th 336:6	362:1 363:1 364:1	actions 333:22	24 316:8,21,23 320:3
0	2nd 362:9,19	365:1 366:1 367:1	345:24	325:20 337:18 343:2,
00:-01 289:9,10	3	368:1 369:1 370:1	actual 351:25	8,9 357:16,18,20
1	3 313:13,14	371:1 372:1 373:1	add 377:9,21 378:3	360:22 361:10 362:5,
1 290:15 301:5,9,12	30 381:8	374:1 375:1 376:1	addition 307:13	10 368:12
308:7,8 366:3,4,9	31st 336:10 339:25	377:1 378:1 379:1	address 338:6 362:6	agreements 316:14
11 321:12 333:18	359:2	7 368:24,25	addressed 360:13	356:25 357:8
335:24 350:14,15	4	7/7/2022 381:19	adequate 313:2	alternative 352:17
11:19a-11:31a	4 335:23,25 346:14	8	adherence 360:22	amend 319:11,24
363:19	45th 381:20	810 381:20	361:9 362:4,10	320:24 322:23 377:8,
12:01 380:11	4940 289:3	85 361:3	administer 366:25	20 378:3
12:20 363:14	5	877 702-9580	administering 341:8	amended 301:16
12:30 363:16	5 339:19,22 346:11,	381:21	administrative	312:16 313:16,24
13 299:3	18,20,23 347:4	9	320:14	314:13 320:19
14 299:3	6	9:33 288:17	advance 330:20	357:18
15 299:3 363:21	6 301:4 361:2,4	9:34 288:10	338:14	amendment 323:9
18 339:20	6-1-2021 288:1 289:1	A	advanced 339:2	amount 320:10,11
1st 288:9 298:17	290:1 291:1 292:1	a.m. 288:10,17	341:20	and/or 295:9
301:21 308:17,25	293:1 294:1 295:1	ability 350:8	advice 328:8 363:13	announced 324:10
309:11 310:10,17	296:1 297:1 298:1	above-average	373:7 375:13 376:14	announcement
311:3,20 381:14	299:1 300:1 301:1	331:2	377:4	324:13
2	302:1 303:1 304:1	abreast 330:7	advise 379:4	answering 378:23
2 301:6,14	305:1 306:1 307:1	accept 356:22	Advised 293:23	anxiety 340:18 341:6
20 363:21	308:1 309:1 310:1	accordance 288:6	advisee's 371:14	anytime 345:8
2000s 293:22	311:1 312:1 313:1	achieve 313:2	advisor 303:16,17,19	apologize 360:8
2001 362:10	314:1 315:1 316:1	acknowledged	316:18 317:10	appoint 297:7
2012 301:21 305:14	317:1 318:1 319:1	338:25	330:25 371:11	299:20,23 300:3,20
2019 314:20 317:13	320:1 321:1 322:1	act 308:16,24 309:10	Advisors 325:22	appointed 296:24
2020 319:10	323:1 324:1 325:1	310:8,16 311:2,19	329:8 332:12,19	305:12
2021 288:10 298:18	326:1 327:1 328:1	317:18 325:22 329:8	advisory 312:17,19,	appointing 301:2
308:17,25 309:11	329:1 330:1 331:1	acted 309:18 328:18,	22 313:17 314:2,14	appointment 307:3
310:10,17 311:3,20	332:1 333:1 334:1	24	315:5 316:22	approval 299:12
358:12 366:11	335:1 336:1 337:1	acting 337:17	affect 331:3	approve 296:6 342:6
380:16 381:14	338:1 339:1 340:1	343:15,17 344:5,15	affiliated 351:9	approved 305:25
	341:1 342:1 343:1		afternoon 340:2	approximately
	344:1 345:1 346:1		agree 326:7	301:23 320:10 358:8
	347:1 348:1 349:1		agreed 333:21	argue 325:23
	350:1 351:1 352:1		352:24 356:21	articulated 335:2
	353:1 354:1 355:1		agreement 301:18	ASAP 349:20
			302:11 312:3,17,20,	Asia 346:13

Aspen 359:23,25	320:16 331:10 341:8 364:8	bring 310:5	292:5 294:5,6,25	357:11,16 359:10
assert 345:15,19		brought 338:21	295:23 301:18 304:6	360:19 361:9 364:22
asserted 371:9	based 328:8		307:14,15,16 308:11, 16,24 309:8 310:9	365:9 368:13,16 369:10
asserting 371:3	basic 333:14	C	312:14 313:3,6,18	close 362:20
asset 350:15	basis 325:18 327:25 331:2 372:17,18	call 313:13 322:18 336:10,15,19,21,23	314:10,11,16,17	coach 300:15
assets 295:24 296:4 312:7 315:7,13,21	373:3 374:13,14	337:6,11,13,25	316:8,9 350:9 352:22	collateralized 304:11
349:3,20 350:10	375:8,20 376:21	338:8,10,25 339:5	366:19 369:9	college 297:20
366:22,24	377:14 378:8,21	358:25	charities 306:21	commenced 332:10 368:17
assumes 303:10	Bates 335:23 339:20 361:2	calls 297:9 305:16,17 306:13 309:4,12	chart 290:3,21 298:13 308:6 309:15 311:23	commencement 314:19
307:7,18 308:18	beginning 293:17,21 361:2	310:11,18 311:4,11	Chase 289:3	comments 372:12, 24
319:13 326:5 359:11	begins 311:22	318:7 321:4 322:7	check 379:8	Commission 381:19
363:8	behalf 292:5 308:16, 23,24 309:10,18	327:23 328:3,5	chose 347:17	common 337:19
attorney 371:8 378:21	310:8,16 311:2,19	340:6,16 341:3,15	circumstances 352:8	common-interest 378:10,23
attorney-client 321:5 325:12 333:9	317:8,19 332:23	342:15,21 343:5	cited 343:3	communicate 359:15
370:25 371:20	334:4 335:10 343:16, 17 344:4,6 345:24	351:18 354:12,19	Civil 381:9	communicated 350:20
373:25 374:15 375:9, 21 376:22 377:15	368:13 380:10	358:17 366:13 372:2	claim 319:12,24,25 320:9,13,14,18,19,24	communication 362:20 371:5 375:23 377:14
378:9,22	behavior 349:25	candidate 305:23	321:16,19 322:23	communications 300:7,9 325:12 334:7 376:25 378:7,25 379:14
attorneys 319:8	belief 365:8,20	candidates 352:15, 17 353:17,19	332:25	Company 301:17 357:19
325:25 337:17 370:6, 10,12,15	believed 304:23 311:19 323:11	Canty 346:15,19,25 366:2	claiming 371:16	complaint 368:23 369:4,9,13,20,25 370:13,23 372:13 373:11,18 374:6,10, 24 375:18 376:5 377:7,9,21
audio 289:8 300:12 322:9 351:12	325:15,19,21 330:11	capability 313:4	claims 321:10,25 322:4 323:12 329:5 345:7,15,19 373:10, 17	complaints 372:25
authority 297:6 299:20 300:20	344:13 345:7,14,18, 22 354:21,23,24	capital 292:6 295:9, 11,14 312:15 313:19	clarification 348:15 365:18,19	compliant 291:7
308:15 354:8,17,24	beneficial 331:25	314:23 315:6	clarify 316:19 349:9	complicated 300:21 306:22
363:5,10	birthday 350:21 359:17	care 379:25	Clay 290:14 294:11 300:13 347:2	compound 324:14, 15 344:7
authorized 308:23, 24 309:10 310:8,16, 25 311:19 357:9	bit 317:12 361:13	carefully 340:22	clear 294:3 300:9 320:5	compromise 335:2
Avenue 356:7	blood 381:12	carry 292:5	client 337:15	
average 303:4	boards 306:20 312:4,10	case 319:9	CLO 290:22 295:17 307:17 310:16 311:2, 19 315:7,13,17,19,20	
aware 333:3 343:9 358:14,23 362:22	bona 321:24 322:4 323:12	caused 319:11,23	317:17 318:2 319:11, 23 320:6,8 322:23	
364:18,24 368:16	Bonds 330:9	caution 370:3	323:22 324:2,6,10	
	bottom 339:21	cautioned 288:14	325:25 326:12,17	
	box 294:10	Cayman 312:6	328:19,25 329:4	
	breached 343:23 344:13 365:10	certify 381:5,11	332:6,12,19,24 333:2	
	break 363:16 379:8	cetera 312:6	334:4 335:11,13	
	brilliant 311:14	challenges 340:19 341:7,18	336:4 345:25 351:9	
		change 327:13 328:13 329:21		
		changed 293:18		
		charitable 291:19,21		
B				
back 308:6 309:15 366:2				
background 289:24				
bankruptcy 314:19 317:14,17 319:8				

Index: computer..Dondero's

computer 372:2	coordination 330:3, 17	332:2 333:24 335:4, 5,12 337:4 341:8	delegated 306:23	divest 348:21,23 349:10,20
conceptual 373:9	copies 380:6	345:24 347:14 350:8	department 318:10 355:13	divested 350:10,15
concerns 364:6,12	copy 369:8 380:3	351:8,9 357:10,16	depend 294:21	divesting 348:11
concert 337:17	correct 299:2 302:18 303:22 304:3 329:20 338:2 351:10 353:11 365:5	359:10 360:18	deposition 288:3,5 289:15 372:3 380:3,5 381:6,7,10	divestment 348:21
conclusion 297:10 305:18 310:12,19 311:5,7,11 327:3 343:6 351:18 354:12, 20 366:13 367:7 381:10	counsel 300:7,11 314:12,18 317:18 318:16 319:5,6 325:2,3 328:9,13 330:10 371:14	363:12 364:22 365:9 366:19 368:16 369:9 371:2,5,11	describe 375:5	divulge 325:11
conducted 288:6	Counsel's 373:6 375:12 376:13 377:3 379:3	DAF's 318:7	designate 354:17	document 290:18 301:5,7 314:5 346:17
conference 336:10 337:11,13	COUNTY 381:3	daily 331:2	determined 354:9	documentation 352:25 353:7
confidential 318:7	couple 322:20 323:17 334:10 341:23 350:22,25 353:17	Dallas 288:12 292:20 293:12	difference 293:10	documents 289:18
confirmed 325:3	court 368:18 371:25 372:7	damage 350:7	differences 295:3	dollars 319:25 320:22 333:21
confrontation 340:20 341:7,11,14	COVID-19 288:8	Daniel 381:4,18	difficulties 354:3	donations 295:10
connection 289:15 314:12 374:23	crashed 372:2	date 288:9 357:23	direction 327:14,16 329:22	Dondero 288:1,4,13, 20 289:1,7,11 290:1, 17 291:1 292:1 293:1 294:1,14 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1,7 311:1, 16 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 325:1,8 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1,4 337:1 338:1 339:1 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1,8 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1,8 361:1 362:1 363:1,25 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1,5,11 373:1,7 374:1,11 375:1,13 376:1 377:1 378:1 379:1,15,20 380:1,14 381:1,6
considered 301:2	created 296:8	dated 301:20	director 292:18 307:15 351:9	Dondero's 311:8 348:2
contempt 289:16	Current 288:7	day 288:9 327:4,6 339:13,15 352:18 380:16 381:14	directorship 307:23 308:4	
content 371:17 372:16 373:24 374:14 377:13 378:7	D	Daylight 288:10	disagreement 315:16	
contents 375:23 376:24 378:24	D&o 352:16 353:13 354:3	days 341:23 350:22	Disaster 288:8	
continue 325:22 350:8	DAF 290:21 293:24 294:5,6,15,20,25 295:5,23 296:17,19, 24 297:7 298:2 299:18,23 300:3,20 301:18 302:12,16 303:16 304:15 307:5, 14,15,16 308:11,16, 25 309:8 310:9 312:14 313:3,6,18,19 314:10,11,16,17 315:2,7,13,14 316:8, 9,18 317:3,8,25 318:5 320:12 325:22 327:13 329:4,16,21 330:24 331:13,20	dealing 341:18	disclaim 350:14	
continued 330:24		Dean 353:23	disclose 338:9 372:23	
control 311:24 312:2		debtor 317:14,17 321:25 323:12 332:10,15,25 333:5 350:14 361:8,21 362:5,11 368:17 369:11	discuss 315:16 321:15,18 331:5 367:11 378:13,17	
controlled 303:21 304:2		debtor's 332:17,25	discussed 334:21 370:22	
conversation 319:18 326:3,15,16, 21,23 327:3,10 329:8,13,17 334:2,7, 8,12,18,21 335:7,16 337:16 340:12 371:18		decade 355:10	discusses 315:14	
conversations 322:19 323:10 339:2 344:20 352:10 359:22,24 365:7 370:4,5,8,10 377:24		decided 291:13 341:2	discussing 368:2,10	
cooperation 330:4		decision 317:4 321:16,19 322:23 326:4 328:19,24 330:2 334:3 340:14 367:13 368:3,12	discussion 322:15, 17	
		decisions 304:10 331:3 338:16 364:7, 13,20 365:15	discussions 321:23 322:22 344:18 353:9 356:19 369:24 375:15 376:4	
		deductions 291:22	distortion 289:8 300:12 322:9 351:12	
		defendant 375:17 376:17 377:10,21 378:4	District 368:18,19	

Index: donor..happen

donor 293:23 330:24 331:6,8,13,15,16,20	entities 293:4 296:3 307:23 311:25 312:9 314:22 315:3 317:21 318:2,3 332:2,11 335:13 351:9 352:15 357:10,16 360:18 366:18 369:11	343:16 348:19	finances 331:4	funds 293:24 332:12, 18 345:4,10
doubt 328:10,16	entity 291:19 295:8, 10,12,14 298:13,17 307:3 309:10,19 312:5 316:23 332:6 333:19 350:9 366:8	explanation 322:13	find 318:11 352:15	future 356:17
draft 372:12,25		expressed 364:3,5, 12	finish 372:3	
drafts 374:24		expression 295:8	finished 334:14 360:9	G
due 311:10		extent 297:9 300:5 305:17 306:12 318:6 321:3 333:8 351:17 354:11 366:12 370:5	firm 341:18 372:12 373:11 374:9,23 375:16 376:18 377:7, 20 378:18 379:15	gave 291:24 335:11 339:12 340:4 351:3 352:5 358:15
Dugaboy 331:12,25 332:5			firms 318:13	general 291:4 293:19 295:7 309:23 357:20 374:22
duly 288:14 381:7	essentially 320:22	F	fit 304:19	generally 291:2 358:22
duties 325:21 329:12 343:24 344:14 359:9 365:10,13,21 367:9 371:15	establish 356:14	fact 337:7 352:11	floor 356:12	give 290:11 340:14 341:2
duty 366:10,18 367:5	estate 321:11	factors 353:17	flows 311:24	giving 291:21 292:5 309:23 313:3 322:4 350:13 352:22 359:8 363:13
E	event 351:24	facts 303:11 307:8, 19 308:19 311:8,9 319:14 326:6 359:12 363:8 374:5,9,19,22	follow 373:6 375:12 376:13 377:3 379:3	good 288:20 289:7, 11 300:14 304:18,25 305:23 318:11 324:8 328:18,24 331:19,20, 24 332:5
earlier 329:18 333:17 336:24 365:3	evidence 303:11 308:19 326:6 359:12 363:8	fair 348:16 364:9,25 365:11	Foods 353:23	governing 325:19
East 381:20	exact 295:3 307:25	faith 328:18,24	form 290:25 291:10 294:2 309:24 320:17 326:24 334:9	GP 294:25 301:18 302:12,16 307:5,14 313:19 314:11,17 316:9 351:8
effective 301:21 342:6,13	EXAMINATION 288:18	falls 371:15	formal 305:21	Grant 296:15 298:6 305:23 309:14,18 311:22 333:21 352:19 353:3 361:2, 19
effectively 316:17 366:25	Excuse 312:24	familiar 292:14 294:14 360:21	formally 359:3	group 314:3 330:17
effectuated 354:25	execution 314:13	Federal 381:8	formation 298:5	Guernsey 312:6
efficiently 366:25	executive 353:23	feel 329:19	forward 347:20	guess 320:22 327:20 328:15 348:24
Ellis 330:10 381:3	exhibit 290:2,15 301:4,6,8,9,12,14 308:7,8 313:13,14 335:22,23,25 339:6, 19,22 346:11,18,20 347:4 360:25 361:2,4 366:3,4,9 368:24,25	fide 321:24 322:4 323:12	forwards 361:20	guys 380:3
email 338:2,5,6,15,24 339:24 341:21 343:4 346:6,9 347:10 348:10	exhibits 380:6	fiduciary 329:12 343:23 344:14 365:10,13,21 366:10, 18	foster 291:21	H
Emergency 288:7	existed 315:24	fighting 330:25	found 351:19	
employed 355:3,7, 19,22,25	existing 343:9	figure 337:9,10,12	foundation 292:20 293:13 296:2 330:15 343:6 358:19 367:16 378:6	half 363:21
end 358:2,11	expect 331:5 356:16	file 301:4 377:8	foundations 292:11, 15,18,23	hand 381:14
ends 311:22	expenses 367:2	filed 317:14,17 323:9, 22 369:9,17,20,25 370:13 372:13 373:12,18 376:5,19 377:7,20,25	founder 330:23	happen 351:24
engaged 372:3	experience 302:23 303:8 304:5	final 369:16 374:10	frame 319:21	
enjoys 352:22	expert 303:3	finance 302:24 303:9	free 329:20	
enter 312:15 314:22 334:3 361:9 368:12	expertise 302:23 303:2,9 304:6	filing 320:9 378:2	friendship 363:11	
entered 315:3 316:10	Expires 381:19		fund 294:6 295:23 307:16 309:8 310:9 312:14 313:6,18 314:11,17 316:8 331:3,4 344:10,15 345:7,15,18 365:16 369:10	
	explain 322:3 342:11			

Index: happened..lacks

happened 342:14 351:20	295:17 307:16,17 308:11,16,25 310:16 311:2,20 315:7,13, 17,19 317:17 318:2 319:11,23 320:6,8 323:22 324:2,6,10 326:12 328:25 329:4 332:6,12,19,24 333:2 334:4 335:11,13 336:5 345:25 351:10 357:11,17 359:10 360:19 361:9 364:22 365:9 368:13,16 369:10	327:13,18 329:21 337:5 338:21 364:21	341:2 349:20 351:4 357:24	10 339:25 359:2
Happy 350:21		inaudible 318:8 327:24	intention 358:10	John 290:4 294:3 301:7 310:3 317:18 337:6 346:15
Harbourvest 323:23 324:3 326:2,18 328:20 329:2 367:14 368:4		included 317:25	interaction 341:17	Joint 371:10
HCMLP 315:12,18 316:11,17 317:4,9 318:16,22 319:2 333:23 355:4,7		incorporated 293:3	interest 329:4,16 332:2,5 333:24 335:3,4 337:19 344:10,15 345:4,9 350:4 365:16 371:10	joint-defense 337:18
he'll 294:8		incorrect 338:3	interested 381:12	joint-interest 371:4 372:20 373:4 374:2, 16 375:10,22 376:23 377:16
headed 355:13	Holdco's 315:20 322:23 326:2,17 328:19	indemnification 342:7 343:3,18	interests 364:22 365:9	Judge 310:5 338:4,5
health 340:19 341:6		independent 314:12,18 316:6	interim 358:15 359:3,7,16 360:14,19	jumped 371:23
hear 288:21 289:12 371:19 372:5,8	holders 312:11	inform 330:2,7,12,20 360:11	interpretation 325:19	June 288:10 381:14
heard 300:10 320:21 371:8	holds 295:14,24	information 318:8 325:5 371:12,13 372:24	interruption 289:4,9	justifying 325:20
hearing 324:18 327:3,14 328:15 332:17 336:4 371:7	hope 325:9	informed 308:2 340:13	introduced 290:15 301:6 313:14 335:25 339:22 361:4 368:25	<hr/> K <hr/>
hearsay 328:4,5 340:17 341:4 342:16, 22 343:19 352:13 353:20 358:18	hoping 325:11	informing 327:15 329:22	invade 321:4	Kane 317:18,23 318:5 337:6 338:14 339:2 344:6
held 298:12,16 307:22 308:10 312:7 363:19 366:22 379:10	hour 327:14 363:21	inheriting 356:21	invades 333:9	kind 315:19 356:25 357:8 372:17
	hours 290:6,10,11,12	initial 298:25 331:16	investment 303:9, 15,16,19 312:16,19, 22 313:17 314:2,14 315:5 316:18,22 317:4,7,10 330:25 331:12	knew 312:20 339:15 340:18 354:22
	house 359:23	Initially 298:24	investments 335:5 348:24	knowledge 300:24 302:25 304:7,10 306:25 307:10 311:8, 22 312:8,18 313:7 321:6,12 352:21 353:9 355:17 362:8, 12
	housemates 297:19	injunction 332:18	involved 306:10,17, 21,22 307:3 312:12 318:18 319:8	<hr/> L <hr/>
	hundred 320:21 333:16,20	injunctive 332:16	involvement 293:12	L.P. 292:6 294:6 295:24 307:16 309:9 310:9 312:14,15 313:6,18,20 314:11, 17 315:6 316:8 369:10
	<hr/> I <hr/>	instruct 300:4 325:4 337:15 360:16 363:2, 6 372:15 373:2 374:13 375:7,19 376:20 378:6,20	ipad 372:3	La 346:13
helped 371:12	ideas 373:10,17 374:23	instructed 325:25 362:9,19,23	issue 361:21 363:10	labeled 296:21 301:8
helping 371:14	identified 292:12 293:4 337:25	instructing 372:18	issues 333:5 340:19 341:6 360:12	lack 313:4
hereinbefore 381:6	identify 307:2 308:14 309:9 310:23 311:18 317:4 318:11 371:13	instruction 362:4 374:25 376:6	<hr/> J <hr/>	lacks 330:15 343:6 358:19 367:15 378:5
hereunto 381:13	identifying 318:12	instructions 358:16, 23 359:8	James 288:4,13 375:17 380:14 381:6	
high 297:14	identity 310:25	insurance 352:16 353:14 354:3	January 298:17 301:21 332:17 336:6,	
Highland 291:19,20 292:6 303:20,22 304:2 312:15 313:19 314:23 315:6 320:13 321:9 331:10 356:13	impact 337:4	intended 324:11 377:8		
Highland's 314:19	implicit 365:7	intending 350:3		
hired 314:18	in-house 318:16	intent 335:11 339:12		
historic 333:22	inactions 345:24			
hold 296:4 355:11	inappropriate 324:23,25 325:15,17			
Holdco 290:22 294:5				

Index: lasted..objection

lasted 335:7	litigation 332:14 337:19	311:3,20 358:2,12 362:9,19 366:11	mistakenly 325:11	move 338:22 340:21
late 293:21 332:17 337:22 366:11	LLC 295:2 301:18 302:12,16 307:5,14 313:19 314:11,17 316:9	mark 291:15,17 297:5,6 305:22 306:23 351:20 352:11,21 353:4 360:25 361:20 363:12 368:23	moment 299:15 319:23	multiple 300:23 321:9,10 322:18,19
law 318:13	loan 304:11	marked 301:12 347:3	month 332:10 351:5	<hr/>
lawsuit 332:10 368:17 376:18	located 288:11,25 356:4,6,10,15	marking 335:23	months 350:25	N
lawyer 300:14 302:18,20 304:23 337:24 355:16,18	locations 356:15	marriage 381:12	morning 288:20 289:7,11 328:14 348:15	named 376:17
lawyers 318:10,11, 15,17,20,23,25 319:2,3 330:4,9,11 335:17,20 338:15,24 370:7	lodge 373:20	material 337:4	MORRIS 288:19 289:6,10,25 290:7, 13,16 291:3,12 294:11,13 295:22 296:5,11 297:12 298:7,21 300:8,13,17 301:3,11,15 302:4,6 303:12,24 304:20 306:2,14 307:11,21 308:5,9,21 309:7,16, 24 310:6,14,22 311:6,12,15 313:15 315:10 316:15 318:14 319:16,19 321:14 322:10 323:6 324:16,19 325:7 326:10 327:25 328:6 330:18 331:7,18,23 333:12 334:13 335:21 336:2 337:21, 23 338:7,12 339:3, 10,18,23 340:11,21, 24 341:9,19 342:18, 24 343:11,21 344:11, 21 346:4,12,17,24 347:2,6,7,16,25 348:4,6,8 349:5,8,14, 17 350:16 351:14,22 352:4 353:5,25 354:15 355:2 356:18 357:6,14 358:5,7,21 359:14 360:4,24 361:5,6,12,15,18,23 362:2,14,17 363:14, 20,23 364:17 365:23 366:5,16 367:3,22 368:8,22 369:2,18 370:11 371:6,19 372:4,7,10,22 373:5, 15 374:4,18 375:4, 11,24 376:12 377:2, 18 378:12 379:2,6, 11,19,23	names 312:9
layperson 303:5	log 379:13	materially 350:7	motion 332:17 377:8,20,25 378:2	needed 329:15 330:2 345:3 360:12
learn 299:22 323:25 324:12 338:13 359:6 361:7 377:19	long 327:2 335:6,8	matter 360:18 381:13		negative 337:4
learned 324:5,18 325:24 326:11 333:7, 10	long-term 363:10	Mazin 370:14,17,18, 22 371:23 373:21		negotiation 313:11 314:8,13
leave 345:10 377:8, 20 378:3	lot 370:15	Mckinney 356:7		Nexpoint 316:22 318:23 319:2 331:11
left 356:13 363:17	<hr/>	me--and 323:8		night 325:2 328:14
legal 297:9 304:24 305:17 309:5,13 310:12,19 311:5,7,11 318:10 322:8 325:18 343:6 348:24 351:18 354:12,20 366:13 367:7	M	meaning 348:23		Northern 368:19
legitimate 321:8	made 299:12 304:10 317:8 324:13 328:18, 24 364:7,14,20 372:2	mechanism 305:24 306:20		not-too-distant 356:17
levels 300:23	make 297:3 298:22 299:7 310:4 323:8 328:12 336:24 348:25 350:2	member 296:22 302:12,16 305:13 307:4,13 311:24 351:8 366:23		Notary 381:4,18
Liability 301:17 357:19	makes 295:10	memory 320:6,8		note 288:5 290:5 338:4
life-long 305:4	making 350:4 365:15 371:23	mentioned 353:12 359:18		Noted 380:11
limited 290:6 301:17 357:18,19	man 297:22	message 334:25		notes 379:8
limiting 290:12	manage 315:6	microphone 288:23		notice 335:11 338:15 339:12 340:5,14 341:2,20 351:3 357:24 358:10
liquidate 350:3,5	managed 315:12,20	million 320:10 333:18		notify 347:22
liquidating 350:2	management 292:6 312:15,25 313:5,19 314:24 315:6	million-dollar 350:14,15		number 296:17 339:19
liquidation 349:2	manager 333:23	mind 304:23 323:5 366:23		<hr/>
list 336:8	managing 296:21 302:12,16 305:13 307:4,13 311:23 351:8 366:23	minutes 363:21		O
listen 340:22	manifested 320:4,15	mischaracterizes 309:22		object 293:25 297:9 305:16 309:24 366:12 373:24
	manner 320:25	missed 323:15		objection 290:25 291:10 295:19,25 296:10 297:8 298:3, 19 303:10,23 304:16 305:15 306:12 307:7, 18,24 308:18 309:2, 4,12 310:11,18 311:4 315:8 316:12 318:6 319:13 321:3 322:7
	March 308:17,25 309:11 310:10,17	mission 350:9		
		misstates 359:19		

323:2,22 324:2,7,11, 14,15 325:20 326:2, 5,12,18 327:23 328:2,3,19,25 330:13,21 331:14,21 333:8 337:14 338:19 339:8 340:6,16 341:3,15 342:15,21 343:5,19 344:7,16 346:2 347:11 350:12 351:11,17 352:2,13 353:20 354:11,19 356:11 357:2,3,12 358:3,17 359:11,19 363:7 364:15 365:22 366:20 367:13,15 368:4,5 369:15 370:24 373:20,21,23 378:5	oral 288:3 356:24 357:8 Order 288:7 org 290:21 309:15 311:23 organization 293:9 organizational 290:2 292:4 296:7 organizations 293:5 304:6 original 298:5 320:9 375:17 originally 343:10 originate 317:9 outcome 381:12 overbilled 320:12 overbilling 321:8 333:18,20 owed 365:21 366:10, 18 owes 367:5,9 owned 303:21 ownership 312:2	party 381:10 patent 302:20 Patrick 291:15,17 292:3 293:15 296:7 297:5,6 298:9,12,16, 23 299:6 300:25 301:4 303:7 304:14 305:9,12,22 306:11, 18,23 307:6 351:7, 15,21 352:6,8,11,12, 21 353:4,8,12 354:7, 10 355:3,24 356:20, 25 357:8,15 358:15 359:2,7 360:7,11,16 361:20 362:9,18,22, 25 363:5 367:12 368:2,11 378:14 Patrick's 357:25 358:11 362:3 Pause 289:5 people 312:4,9 330:7 336:9,13 perfect 348:6 perform 371:14 period 355:6 357:23 358:4,9,15,25 359:4, 7,16 360:14,19 364:14 permanent 356:14 person 299:7 305:12 306:4 307:2 308:14 310:23,25 311:18 personal 330:10 365:20 personally 370:19 perspective 345:13 pertaining 357:9 phone 322:18 336:15,19,21 339:5 phrase 294:15,17,20 295:5 348:20 360:21 picked 297:25 pivot 336:25 place 293:20 316:14 326:23 327:4 334:7 336:6,16 343:10	plans 336:25 playing 299:15 pleading 378:3 POC 320:14 point 320:19 332:23 337:19 349:25 361:8 points 327:12 pool 295:9,10,14 portfolio 312:25 313:2,5 350:3,6 position 304:19,25 305:7 308:11 355:14 positions 335:12 355:11 356:20 possibility 378:2 post-bankruptcy 331:11 post-petition 364:14,21 potential 345:23 potentially 345:11 power 299:22 300:2 practice 314:2 practitioner 353:24 preliminary 332:18 premarked 346:21 prepared 314:4 presented 336:5 previously 316:10 332:11 primary 330:24 331:6,8 prior 298:17 308:17, 25 309:11 310:9,17 311:2,20 314:18 320:25 324:9 331:10 353:6 362:12 366:10 373:11,18 376:4,18 377:6,25 privilege 321:5 333:9 370:25 371:3, 4,16,17,20 372:19,20 373:4 374:2,16	375:9,10,22 376:23 377:16 378:10,23 379:13 privileged 300:6 318:8 325:5 privileges 371:9 Procedure 381:9 proceed 290:8 363:24 proceeding 289:16 proceedings 338:22 process 305:21,24 306:8,9,10,17,18,19, 23 318:12 product 371:8 376:22 377:15 378:22 production 379:13 professional 330:6, 12 promise 363:22 proof 319:11,24 320:9,24 322:23 propose 341:24 proposed 323:23 protect 366:24 protected 378:8 provide 291:22 312:25 313:5 372:11 373:9,16 374:5,8,22 provided 371:11 372:24 providing 374:19 provisions 342:7 343:3,18 PTX 380:5 Public 381:4,18 pull 339:18 purpose 312:22 336:18,22 337:5 338:8 369:5 purposes 291:7
objections 310:2 325:23 329:6 371:24 375:2 objectives 329:6 obligation 330:6,12, 20,23 obligations 304:11 obtain 342:7 obtained 363:5 obtaining 354:3 occur 322:17 353:10 occurred 351:24,25 378:25 October 314:20 317:13 319:10 office 356:10,15 officer 292:17 offices 356:4,9,13 offshore 306:20 318:2 353:24 open 345:10 operated 310:21 329:3 operation 312:12 opinion 309:5,13 328:13 optimize 366:24	P p.m. 380:11 paragraph 342:4 paraphrasing--that 364:5 part 326:8 329:16 330:7 352:23 376:3 participate 313:10 322:15 326:20 334:17 336:9 369:23 participated 338:25 370:4 parties 292:12 321:9 330:5 381:11 partners 291:21 292:7 partnership 325:20 357:18,20			

Index: pursuant..Sbaiti

<p>pursuant 302:10 315:4,12,20 353:8,10 381:8</p> <p>pursue 333:22 373:10</p> <p>pursued 321:10 333:19 373:17</p> <p>put 289:19,25 293:20 301:3,8,13 308:6 313:12 335:21 343:10 360:24 366:2 368:22</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 294:2,23 309:25 311:21 315:9 324:8 325:16 326:8 328:21,22 338:11,19 340:23 347:8 348:17 366:15 369:8 372:15 373:14 374:12 377:12</p> <p>questions 323:4 379:12,22</p> <p>quote 342:5 349:19 362:19,20</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raised 360:12</p> <p>reach 337:2</p> <p>reached 332:24 335:10</p> <p>read 380:7</p> <p>ready 363:24</p> <p>reason 328:10,15</p> <p>reasons 303:13 305:6 340:14</p> <p>recall 302:17 317:11, 13,16 319:10,22 320:11 321:22 323:13,21 324:5 326:19 327:8,9,21 329:11 332:8 333:6 334:11,20,22,23 335:6,9,15 336:15,18 339:11,24 344:17,19</p>	<p>345:16,17,20 346:3 347:9,21 350:18 355:12 359:13,21 360:15,20 364:16 365:14 367:18,19,20 368:7,14 369:14 374:3,17,19 377:22, 23 378:11</p> <p>received 346:5 347:23</p> <p>receiving 339:24 346:9 347:9</p> <p>recess 363:19 379:10</p> <p>recollection 298:10 302:13 321:7 367:25 368:10</p> <p>recommend 306:3</p> <p>recommendation 297:2,3 298:22,25 299:8,12 319:7</p> <p>recommendations 319:5</p> <p>recommended 298:6,8 299:17 303:7,14 304:13 305:6 306:5 317:5</p> <p>recommending 305:22 306:7</p> <p>reconsider 342:2</p> <p>record 310:4 338:20 346:10 381:7</p> <p>reduce 320:20 321:16,19</p> <p>reduced 321:13</p> <p>reducing 319:24 322:24</p> <p>refer 294:19 296:20 369:5</p> <p>reference 348:10</p> <p>referred 332:11 339:5</p> <p>referring 294:20 295:6 296:19 313:23 318:16,21 331:9 338:17 341:14</p>	<p>reflected 374:9</p> <p>reflecting 379:13</p> <p>refreshed 316:2 323:4 367:18</p> <p>regard 292:20 363:12</p> <p>rejected 317:5</p> <p>related 381:11</p> <p>relates 343:2 361:21</p> <p>relationship 305:4 363:11</p> <p>release 342:12,20 343:3,18</p> <p>releases 342:8</p> <p>relevance 295:25 331:14,21 343:7 352:2</p> <p>relief 332:16</p> <p>relocating 356:16</p> <p>remember 298:11, 12 302:15 305:22 306:6,7,9 318:9 320:12,18 322:12,21 327:12 329:9 332:22 335:19 339:4 343:25 345:3,5 347:12,24 353:22 355:14 360:2 370:14,15,16</p> <p>reminding 329:14</p> <p>REMOTE 288:3</p> <p>remotely 288:6</p> <p>renew 338:18 339:7</p> <p>repeat 305:19 315:9 346:15 373:13</p> <p>rephrase 325:13 326:9</p> <p>replace 351:16 354:10</p> <p>replaced 302:11 316:17 351:7 352:8 353:8 359:3</p> <p>replacement 333:23 351:25 357:25 358:11</p>	<p>reporter 288:5 289:4,9 372:7,9 380:2</p> <p>reporter's 371:25</p> <p>Reporting 381:19</p> <p>represent 336:3 369:3 370:18</p> <p>representation 337:6</p> <p>representative 357:10</p> <p>represented 317:23, 25</p> <p>representing 330:4</p> <p>request 291:9,11 296:8 379:12</p> <p>requested 348:14</p> <p>requesting 361:8</p> <p>require 300:6 304:23</p> <p>required 304:22 306:8</p> <p>reserve 379:21</p> <p>reserved 381:9</p> <p>resign 335:12 339:12 341:2 351:4 357:24 358:10</p> <p>resignation 336:21 340:5,15 342:5,12 343:13 347:15 366:11</p> <p>resigning 341:25 348:11</p> <p>resolved 332:25 333:4</p> <p>respect 311:10 359:8 360:17 364:6</p> <p>responded 348:14</p> <p>response 322:6 323:14 327:22 346:8 348:2 349:6,15,18</p> <p>responsibilities 359:9</p> <p>responsibility 366:22</p>	<p>responsible 299:9</p> <p>restate 358:6</p> <p>Restated 301:17 312:16 313:17 314:14 357:19</p> <p>result 338:10</p> <p>retained 317:18,20 318:5</p> <p>returns 313:2 331:2</p> <p>reveal 300:6 325:5 375:23 376:24 377:13 378:7,24</p> <p>reversal 327:16</p> <p>review 374:24</p> <p>right--that 323:9</p> <p>role 292:23 298:13, 17 308:2,3 357:9</p> <p>roles 299:14</p> <p>roll 309:15</p> <p>row 293:2</p> <p>Rule 381:8</p> <p>Rules 381:9</p> <p>running 304:6</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>Savings 288:11</p> <p>Sbaiti 293:25 295:19, 25 297:8 298:19 301:7 303:10 305:15 307:7,24 308:18 309:4,12 318:6 322:7 324:14 327:23 328:5 330:13,15,21 331:14, 21 343:5 344:7,16 346:2 351:11 356:11 357:2 358:19 359:11, 19 363:7 364:15 365:22 366:12,20 367:15 371:2,10 372:12,14 373:2,11, 13,22 374:9,11,23,25 375:7,16,19 376:6, 10,18,20 377:7,11,19 378:5,17,20 379:9, 15,18,21,25 380:2,4</p>
---	---	---	--	---

Index: school..testified

school 297:14 Scott 296:15 297:7, 13,25 298:6,8 299:18,20 302:11,18 303:14 304:5,14 305:13 306:4 307:4, 14 308:10 309:14,18 310:8 313:4 317:2,5, 8 319:11,23 320:19, 23 321:15,19,23 322:22 323:10 325:24 326:4,13,16 327:22 328:18,23 329:25 332:23 334:3, 23 335:10,17,23 336:12 339:11,20,25 340:4,13,25 341:21 343:15,23 344:5,23, 25 345:6,14,18,21 347:17 348:20 349:9 350:5,10,20 351:7,16 352:9,19 353:8 354:10 356:21 357:23,25 358:9,16 359:3,8,16 360:13,17 361:2,19 362:9,19,23 363:2,6 364:5,13,19 365:7,21 366:9,17 Scott's 343:4,12 344:5 348:10 349:6 354:18 367:13 368:3, 11 Scott--and 364:4 screen 289:19 308:8 346:18 366:3,4 368:23 scroll 347:25 349:5, 15 361:12,23 362:14 Scrolling 348:3 349:7,16 361:14,17, 25 362:16 seeking 299:11 332:16 Seery 375:17 376:17 377:9,21 378:4,15,18 select 299:6 send 347:18 380:7,8 sending 341:21 sense 328:13	sentence 348:9 separate 303:16 sequence 346:22 serve 292:17 297:25 299:18 304:14 served 302:15 317:2 services 313:5 314:23 315:2 316:21 set 290:24 291:5,8, 11,13,17 293:15 298:25 357:17 374:6 381:6,14 setting 291:18 292:4 299:10 settlement 320:3 323:23 324:3 326:3, 18 328:20 329:2 332:24 333:3,7,15 334:4 335:3,10 336:5 367:14 368:4,12 settlements 337:3 Shared 314:23,25 316:20 shares 300:22 312:11 353:2 short 332:8 363:15 shortly 327:7 335:9 sign 362:4,10 380:8 signature 302:7 381:9 signed 353:4,7 significant 331:3 similar 316:9,13,14 simple 310:2 325:16 simultaneous 319:18 334:12 singular 322:18 sir 290:18 296:13 300:19 302:8 340:23 366:6 372:9 sit 299:25 300:19 365:2 skiing 359:25	skills 304:24 skipped 346:21 Skur 381:4,18 Skybridge 356:2 Skybridge's 356:3 Skygate 316:13,17, 20,22 soft 288:23 380:6 sole 307:15 353:24 sophisticated 300:16 303:4 speak 326:13 370:12 speaking 309:25 specific 294:8 300:23 307:10 312:8 321:12 specifically 290:9 294:9 298:11 299:21 312:12 329:10 332:21 335:20 358:20 360:3 367:10, 17,19,20 374:21 specifically--and 353:3 specifics 310:20 316:25 speculate 306:25 367:21,23 speculation 305:16 306:13 340:7,9 341:16 speed 317:12 spoke 333:17 337:8 344:2 350:23 351:2 stamped 339:20 stand 362:20,23 363:2,6 stands 298:13 start 289:23 290:4 339:20 369:7 state 288:8 338:20 381:2,5,18 stated 298:4 336:24	statements 309:22 states 342:5 368:18 stating 365:15 strategic 373:10 Street 381:20 strike 338:23 340:21 string 338:2,16 structural 295:3 structure 290:23 291:5,8,14,17 292:4 293:16,20 296:7 299:10 312:13 347:14 352:22 354:22 structuring 348:25 struggled 352:14,15, 16 stuff 359:25 subject 314:7 329:7, 11 Subscribed 380:16 subsequently 323:25 substance 334:22 344:13 364:20 369:24 370:8 successor 305:13 307:4 354:18 362:5 suddenly 356:14 sue 344:22 sued 378:15,19 suffering 340:18 341:5 suggest 343:22 376:16 suggestion 365:4 suing 345:2 suitable 299:5 suite 356:9 381:20 sum 334:22 344:12 364:19	summarizing 348:12 Sunday 336:7,10 supervisory 312:10 support 313:3 supporting 293:4,9 surprised 324:20,22 sworn 288:14 380:16 381:7 <hr/> T <hr/> talked 337:9 365:3 370:15 talking 294:4,5,10 346:11 352:18 task 291:24 tasked 291:18 292:3 tax 291:7,22 355:13, 18 Taylor 290:4,9,25 291:10 294:7 296:10 298:3 300:4,10 303:23 304:16 306:12 307:18 309:2, 21 310:3,11,18 311:4,10 315:8 316:12 319:13 321:3 323:2 324:15 325:4 326:5 328:3 333:8 337:14 338:3,18 339:7 340:6,16 341:3,15 342:15,21 343:19 346:10,14 347:5,11 350:12 351:17 352:2,13 353:20 354:11,19 357:3,12 358:3,17 363:18 368:5 369:15 370:2,24 371:22 373:19 380:9 telephone 326:24 335:16 telling 337:2,3 345:3 364:19 terms 333:14 testified 288:16
--	---	--	---	---

<p>322:25 344:8 354:13 365:6,12</p> <p>testimony 323:20 353:6 359:20 381:7</p> <p>Texas 288:12 368:19 381:2,5,18</p> <p>text 350:21 359:17</p> <p>things 312:7 323:5 342:13 351:20 367:6</p> <p>thought 299:4 303:8 304:18,24 308:2 322:3</p> <p>thoughts 373:16</p> <p>thousand 320:21 333:17,20</p> <p>threaten 344:22</p> <p>three-minute 379:7</p> <p>time 288:10,11 290:10,11 291:19 299:5,17 303:6,22 304:2 308:12 311:17 319:21,23 320:19,25 321:18 324:9 332:23 335:18 337:20 339:16 340:5 343:24 350:19,23 351:2,3 353:7,21 355:6 358:9 359:2,7 361:8 363:15 366:10 367:12 369:14 373:11,18 376:5,19 377:6,25 379:17,20 380:11</p> <p>times 325:9 334:10, 16</p> <p>today 289:14,19 299:25 300:19 316:9 343:2 355:20 365:2</p> <p>Today's 288:9</p> <p>told 290:10 323:7,11 337:7 338:8 341:5 344:4,9 345:14,17 351:21 353:12 364:3</p> <p>top 292:10 362:15</p> <p>topic 378:14,18</p> <p>Tower 289:3</p> <p>traded 333:20</p>	<p>transcript 380:5</p> <p>transfer 353:2</p> <p>trouble 353:13 371:7</p> <p>true 381:7</p> <p>Trust 331:13,19,20, 25</p> <p>trusted 305:2</p> <p>trustee 296:16,18, 20,24 297:7 298:2 299:18,23 300:3,20 304:15 311:23 317:3 331:5 345:8 353:4 366:23</p> <p>trustees 312:5</p> <p>trusts 332:5</p> <p>truth 288:15,16 337:10,12 338:13</p> <p>TSG 381:19</p> <p>Tuesday 311:13</p> <p>two-month 358:8</p> <p>two-year 357:23 358:4</p> <p>type 316:10</p> <p>typically 331:5</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>ultimately 320:2 347:3 351:13</p> <p>unbeknownst 352:24</p> <p>underlying 306:21 377:13</p> <p>understand 289:14 296:16 302:10 307:12 310:7 322:2 325:10 355:24</p> <p>understanding 291:5 293:8 294:25 295:13 299:19 300:2, 18 311:9 312:21 315:11,23 316:16 317:22,24 333:14 341:13 354:16 363:4 367:6,8</p>	<p>underway 353:10</p> <p>United 368:18</p> <p>unpredictable 349:24,25</p> <p>upload 346:22</p> <p>usual 289:19</p> <p>UVA 297:16</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vague 296:10 297:8 298:19 307:24 315:8 316:12 323:2 330:21 344:16 346:2 347:11 350:12 356:11 357:3, 12 363:7 364:15 365:22 367:15 369:15 373:20 378:5</p> <p>valuable 303:8</p> <p>version 374:10</p> <p>versions 369:16,19</p> <p>vetting 318:12,20</p> <p>view 348:20 363:9</p> <p>views 367:12 368:3, 11</p> <p>voting--again 353:2</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 311:12,13</p> <p>wanted 290:5 342:19 343:17 348:25 350:2</p> <p>wedding 297:22</p> <p>week's 289:15</p> <p>weeks 327:17</p> <p>WHEREOF 381:13</p> <p>withdraw 325:25 328:19,25 337:2 367:13 368:3</p> <p>withdrawal 326:17</p> <p>withdrawing 324:10 329:5</p> <p>withdrawn 295:12 298:15 301:2 303:25</p>	<p>305:10 306:15 313:9, 11 316:4,6 320:7 322:5 324:7 346:7 352:6 354:8 358:24 365:23 374:7</p> <p>withdrew 324:2,6 326:12</p> <p>word 330:22 341:10 349:10 365:13</p> <p>words 329:14 365:14</p> <p>work 371:8 376:22 377:15 378:21</p> <p>work-product 371:3,15,16 372:19 373:3,25 374:15 375:9,21 378:9</p> <p>worked 347:14 354:22</p> <p>working 363:11</p> <p>works 305:24 353:3</p> <p>world 308:22 309:9 344:14 345:22 377:24</p> <p>write 349:23</p> <p>written 356:24 357:7</p> <p>wrong 365:4</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>years 293:17,19 296:17 299:3 301:24 331:16</p> <p>York 363:15 381:20</p>
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EXHIBIT 98

DONDERO - 10/29/21

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

Chapter 11
HIGHLAND CAPITAL
MANAGEMENT, L.P., CASE NO.
19-34054-SGI11

Debtor.

HIGHLAND CAPITAL MANAGEMENT, L.P.,

Plaintiff,

vs.

Adversary
Proceeding No.

JAMES D. DONDERO, 21-03003-sgi

Defendant.

REMOTE VIDEOTAPED DEPOSITION OF

JAMES DONDERO - VOLUME 2

October 29, 2021

Reported by: Susan S. Klinger, RMR-CRR, CSR

Job No. 201874

<p>1 DONDERO - 10/29/21</p> <p>2</p> <p>3</p> <p>4 October 29, 2021</p> <p>5 10:21 a.m.</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Remote Deposition of JAMES DONDERO, held</p> <p>10 before Susan S. Klinger, a Registered Merit</p> <p>11 Reporter and Certified Realtime Reporter of the</p> <p>12 State of Texas.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 284</p> <p>1 DONDERO - 10/29/21</p> <p>2 A P P E A R A N C E S:</p> <p>3 (All appearances via Zoom.)</p> <p>4 Attorneys for the Reorganized Highland Capital</p> <p>5 Management:</p> <p>6 John Morris, Esq.</p> <p>7 Hayley Winograd, Esq.</p> <p>8 Gregory Demo, Esq.</p> <p>9 PACHULSKI STANG ZIEHL & JONES</p> <p>10 780 Third Avenue</p> <p>11 New York, New York 10017</p> <p>12</p> <p>13 Attorneys for NexPoint Advisors, LP and</p> <p>14 Highland Capital Management Fund Advisors,</p> <p>15 L.P.:</p> <p>16 Davor Rukavina, Esq.</p> <p>17 Thomas Berghman, Esq.</p> <p>18 MUNSCH HARDT KOPF & HARR</p> <p>19 500 North Akard Street</p> <p>20 Dallas, Texas 75201</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>1 DONDERO - 10/29/21</p> <p>2 Attorneys for Jim Dondero, Nancy Dondero, HCRA,</p> <p>3 and HCMS:</p> <p>4 Deborah Deitsch-Perez, Esq.</p> <p>5 Michael Aigen, Esq.</p> <p>6 STINSON</p> <p>7 3102 Oak Lawn Avenue</p> <p>8 Dallas, Texas 75219</p> <p>9</p> <p>10 Attorneys for Dugaboy Investment Trust:</p> <p>11 Douglas Draper, Esq.</p> <p>12 Michael Landis, Esq.</p> <p>13 HELLER, DRAPER & HORN</p> <p>14 650 Poydras Street</p> <p>15 New Orleans, Louisiana 70130</p> <p>16 Attorneys for Marc Kirschner as the trustee for</p> <p>17 the litigation SunTrust:</p> <p>18 Deborah Newman, Esq.</p> <p>19 QUINN EMANUEL URQUHART & SULLIVAN</p> <p>20 51 Madison Avenue</p> <p>21 New York, New York 10010</p> <p>22 Also Present:</p> <p>23 Dan Elms</p> <p>24 Aaron Lawrence</p> <p>25 Patricia Jeffries, Pachulski Stang</p>	<p>Page 285</p> <p>1 DONDERO - 10/29/21</p> <p>2 I N D E X</p> <p>3 WITNESS PAGE</p> <p>4 JAMES DONDERO</p> <p>5 EXAMINATION BY MR. MORRIS 289</p> <p>6 E X H I B I T S</p> <p>7 No. Page</p> <p>8 Exhibit 1 Original Complaint 466</p> <p>9 Exhibit 2 NexPoint Complaint 408</p> <p>10 Exhibit 3 HCMS Complaint 433</p> <p>11 Exhibit 4 Letter, 12/3/20 464</p> <p>12 Exhibit 6 Term note 446</p> <p>13 Exhibit 15 NexPoint Advisors Answer 380</p> <p>14 Exhibit 16 HCMS's Answer 362</p> <p>15 Exhibit 17 HCRE's Answer 377</p> <p>16 Exhibit 31 Answer to Complaint 354</p> <p>17 Exhibit 35 Incumbency Certificate 309</p> <p>18 Exhibit 37 Incumbency Certificate 323</p> <p>19 Exhibit 47 NexPoint 30(b)(6) notice 345</p> <p>20 Exhibit 48 HCMS 30(b)(6) notice 353</p> <p>21 Exhibit 49 HCRE 30(b)(6) notice 354</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 286</p>	<p>Page 287</p>

<p style="text-align: right;">Page 288</p> <p>1 DONDERO - 10/29/21</p> <p>2 PROCEEDINGS</p> <p>3 VIDEOGRAPHER: This marks the</p> <p>4 beginning of Video 1 in Volume 2 of the</p> <p>5 deposition of James Dondero in the matter</p> <p>6 In Re: Highland Capital Management, L.P.</p> <p>7 Today's date is October 29, 2021. The time</p> <p>8 on the video monitor is 10:21 a.m.</p> <p>9 Will the court reporter please swear</p> <p>10 in the witness.</p> <p>11 JAMES DONDERO,</p> <p>12 having been first duly sworn, testified as</p> <p>13 follows:</p> <p>14 MR. MORRIS: Deborah, would you like</p> <p>15 to make a statement?</p> <p>16 MS. DEITSCH-PEREZ: I didn't know if</p> <p>17 you wanted appearances first. Sure. This</p> <p>18 is Deborah Deitsch-Perez from Stinson. I'm</p> <p>19 counsel for Mr. Dondero, Nancy Dondero,</p> <p>20 HCRE and HCMS in this deposition.</p> <p>21 I want to apologize for everybody</p> <p>22 that we're starting late. Mr. Dondero was</p> <p>23 under the weather. It is – he has taken</p> <p>24 something, so he should not have to leave</p> <p>25 the deposition, but if at any point he</p>	<p style="text-align: right;">Page 289</p> <p>1 DONDERO - 10/29/21</p> <p>2 looks green to me, I will ask that we stop</p> <p>3 and reconvene when he is not feeling</p> <p>4 nauseous.</p> <p>5 MR. MORRIS: All right. I would</p> <p>6 like to just begin here. We have counsel</p> <p>7 on the line for all of the defendants, we</p> <p>8 have counsel for the plaintiff, and we have</p> <p>9 counsel for the Highland Litigation Trust,</p> <p>10 and I think that that is everybody who</p> <p>11 is – is supposed to be here, so I would</p> <p>12 like to just begin.</p> <p>13 EXAMINATION</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Mr. Dondero, can you hear me okay?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And are you feeling well</p> <p>18 enough to begin today's deposition?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. I understand that you are not</p> <p>21 feeling well. And I want you to know that I do</p> <p>22 not want to proceed with this deposition unless</p> <p>23 you believe that you are physically and</p> <p>24 mentally able to participate to the best of</p> <p>25 your ability. Okay? Do you understand that?</p>
<p style="text-align: right;">Page 290</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes.</p> <p>3 Q. So if at any time you don't feel</p> <p>4 like you can continue, I would rather adjourn</p> <p>5 to one day next week to complete the deposition</p> <p>6 rather than forcing you to do something that</p> <p>7 you don't believe you're capable of doing.</p> <p>8 Okay?</p> <p>9 A. Yes. Yes. I did throw up twice</p> <p>10 last night.</p> <p>11 Q. Okay.</p> <p>12 A. I imagine we could go for – let's</p> <p>13 shoot for four hours today, you know, maybe –</p> <p>14 maybe five, I don't know, but if we don't</p> <p>15 finish –</p> <p>16 Q. I don't want to –</p> <p>17 A. – we will do the rest next week.</p> <p>18 Q. Okay. I don't want to put an</p> <p>19 arbitrary time on it. You tell me if you are</p> <p>20 unable to continue. Okay? Is that fair?</p> <p>21 A. Yes. That is my estimate at this</p> <p>22 point.</p> <p>23 Q. Okay. You founded Highland Capital</p> <p>24 Management, L.P.; correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 291</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And we are going to refer to that</p> <p>3 entity and that entity only today as Highland;</p> <p>4 is that okay?</p> <p>5 A. Yes.</p> <p>6 Q. When did you found – when did you</p> <p>7 create Highland?</p> <p>8 A. '94.</p> <p>9 Q. And did you serve as Highland's</p> <p>10 president from 1994 until on or around January</p> <p>11 9th, 2020?</p> <p>12 A. Yes.</p> <p>13 Q. Did – can you describe in your own</p> <p>14 words what the business of Highland was while</p> <p>15 you were president?</p> <p>16 A. We were largely below investment</p> <p>17 grade, credit strap, and we diversified over</p> <p>18 the years to become more of an alternative</p> <p>19 asset manager in a variety of formats.</p> <p>20 Q. And –</p> <p>21 MS. DEITSCH-PEREZ: I'm sorry, John,</p> <p>22 one sec. This was set up by someone a lot</p> <p>23 shorter than Mr. Dondero. Let me just take</p> <p>24 one minute to adjust it.</p> <p>25 MR. MORRIS: May I proceed, Deborah?</p>

<p>Page 292</p> <p>1 DONDERO - 10/29/21</p> <p>2 MS. DEITSCH-PEREZ: (Nods head.)</p> <p>3 Q. Okay. Mr. Dondero, at its peak,</p> <p>4 what is the – the largest value of assets that</p> <p>5 Highland had under management while you were</p> <p>6 president?</p> <p>7 A. 35 billion.</p> <p>8 Q. And do you recall what year that</p> <p>9 was?</p> <p>10 A. Not exactly.</p> <p>11 Q. Was it before the 2008 financial</p> <p>12 crisis?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So you were the president of</p> <p>15 Highland for about 25 years; is that right?</p> <p>16 A. Yes, 25, 26, whatever.</p> <p>17 Q. And do you consider yourself to be</p> <p>18 expert in the area of money management?</p> <p>19 A. Yeah, on the things that we focus</p> <p>20 on.</p> <p>21 Q. You are a sophisticated investor;</p> <p>22 right?</p> <p>23 A. Yes. I would believe I'm</p> <p>24 categorized as such.</p> <p>25 Q. And you are a sophisticated money</p>	<p>Page 293</p> <p>1 DONDERO - 10/29/21</p> <p>2 manager; is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. And you manage money on behalf of</p> <p>5 thousands of people; isn't that right?</p> <p>6 A. Yes.</p> <p>7 Q. And as a general matter, you know</p> <p>8 how to read and understand balance sheets,</p> <p>9 don't you?</p> <p>10 A. Yes.</p> <p>11 Q. You have signed promissory –</p> <p>12 promissory notes before, haven't you?</p> <p>13 A. Yes.</p> <p>14 Q. Is it fair to say you have signed</p> <p>15 hundreds of promissory notes during the 25-year</p> <p>16 period that you were the president of Highland?</p> <p>17 A. No.</p> <p>18 Q. Is it fair to say that you signed</p> <p>19 dozens of promissory notes during the time that</p> <p>20 you were president of Highland?</p> <p>21 A. Yeah, dozens is probably fair.</p> <p>22 Q. Okay. And is it fair to say that</p> <p>23 the aggregate principal amount of the</p> <p>24 promissory notes that you signed while you were</p> <p>25 president of Highland likely exceeded</p>
<p>Page 294</p> <p>1 DONDERO - 10/29/21</p> <p>2 \$200 million?</p> <p>3 MS. DEITSCH-PEREZ: Objection to the</p> <p>4 form.</p> <p>5 A. I don't have a basis for knowing</p> <p>6 that.</p> <p>7 Q. You do know that it is more than</p> <p>8 \$100 million, don't you?</p> <p>9 A. No.</p> <p>10 Q. Do you owe today Highland Capital</p> <p>11 Management Services more than \$75 million?</p> <p>12 A. I don't know what the amount is. I</p> <p>13 don't believe it is that much.</p> <p>14 Q. Are the obligations to Highland</p> <p>15 Capital –</p> <p>16 MS. DEITSCH-PEREZ: Hold on. Hold</p> <p>17 on. My connection just disappeared.</p> <p>18 MR. MORRIS: Okay.</p> <p>19 MS. DEITSCH-PEREZ: Okay, I'm back.</p> <p>20 Q. Okay. Did the – did the</p> <p>21 obligations that you have to Highland Capital</p> <p>22 Management Services, are they reflected in</p> <p>23 promissory notes?</p> <p>24 MS. DEITSCH-PEREZ: Could you repeat</p> <p>25 that question?</p>	<p>Page 295</p> <p>1 DONDERO - 10/29/21</p> <p>2 MR. MORRIS: Sure.</p> <p>3 Q. Mr. Dondero, you borrowed money from</p> <p>4 Highland Capital Management Services; correct?</p> <p>5 A. I'm sorry, it sounds like at first</p> <p>6 you were asking me, did Highland Capital</p> <p>7 Services borrow money from Highland. Now</p> <p>8 you're asking me if I borrowed money from</p> <p>9 Services?</p> <p>10 Q. Yeah, let me – let me rephrase the</p> <p>11 question, sir, because if it is not clear, that</p> <p>12 is my fault, and I apologize.</p> <p>13 Did you – have you borrowed money</p> <p>14 from Highland Capital Management Services?</p> <p>15 A. I believe so.</p> <p>16 Q. Okay. Do you know the aggregate</p> <p>17 principal amount that is outstanding today,</p> <p>18 ballpark?</p> <p>19 A. No.</p> <p>20 Q. Are the obligations that you have to</p> <p>21 Highland Capital Management Services reflected</p> <p>22 in promissory notes where you're the maker and</p> <p>23 Highland Capital Management Services is the</p> <p>24 payee?</p> <p>25 A. Please repeat that question.</p>

<p>Page 296</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Are you the maker on promissory</p> <p>3 notes in favor of Highland Capital Management</p> <p>4 Services, Inc.?</p> <p>5 A. I don't know. I believe – I</p> <p>6 believe so, or I believe I have in the past,</p> <p>7 but I don't know.</p> <p>8 Q. Do you have any – any estimate as</p> <p>9 to how much money you owe Highland Capital</p> <p>10 Management Services, Inc. today?</p> <p>11 MS. DEITSCH-PEREZ: Asked and</p> <p>12 answered.</p> <p>13 A. No.</p> <p>14 Q. Can you say if it is more or less</p> <p>15 than \$50 million?</p> <p>16 A. I don't know.</p> <p>17 Q. Can you say if it is more or less</p> <p>18 than \$25 million?</p> <p>19 A. I don't know.</p> <p>20 Q. As a general matter, is it fair to</p> <p>21 say that you know how to read and understand</p> <p>22 promissory notes?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. In general, yes.</p>	<p>Page 297</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. When you were in control of</p> <p>3 Highland, you personally decided who was hired</p> <p>4 at that company; is that fair?</p> <p>5 A. Sometimes, in senior positions.</p> <p>6 Q. Okay. Did your duties as president</p> <p>7 of Highland include being familiar with the</p> <p>8 debts and obligations that were owed to</p> <p>9 Highland?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. I mean, generally.</p> <p>13 Q. Okay. Did you ever do anything to</p> <p>14 familiarize yourself with the debts and</p> <p>15 obligations that were owed to Highland?</p> <p>16 A. Are you referring to the affiliated</p> <p>17 notes or –</p> <p>18 Q. Sure.</p> <p>19 A. – or what – what are –</p> <p>20 Q. I was – I was asking – I</p> <p>21 apologize. I don't mean to step on your words.</p> <p>22 A. No, you just – because I don't</p> <p>23 think Highland had a lot of other obligations</p> <p>24 due from other parties, and the affiliated</p> <p>25 notes in aggregate were always de minimis to</p>
<p>Page 298</p> <p>1 DONDERO - 10/29/21</p> <p>2 Highland than now, at any time.</p> <p>3 Q. It is your – it is your position</p> <p>4 that the affiliate notes to Highland were de</p> <p>5 minimis in amount?</p> <p>6 A. Yes.</p> <p>7 Q. And how do you define de minimus for</p> <p>8 that purpose?</p> <p>9 A. I believe the balance sheet of</p> <p>10 Highland today for the last three years, four</p> <p>11 years, five years has been between 5 and</p> <p>12 \$600 million. I believe the notes have never</p> <p>13 been more than 8 or 10 or 12 percent of that</p> <p>14 number.</p> <p>15 Q. And you believe that 8 or 10 or</p> <p>16 12 percent of Highland's asset base you</p> <p>17 would – you would define as de minimis?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. As – as president of</p> <p>20 Highland, did you ever do anything to</p> <p>21 familiarize yourself with the number and amount</p> <p>22 of affiliate loans that Highland carried on its</p> <p>23 books and records?</p> <p>24 A. Not that I can recall.</p> <p>25 Q. Was there anybody at Highland who</p>	<p>Page 299</p> <p>1 DONDERO - 10/29/21</p> <p>2 was charged with the responsibility of knowing</p> <p>3 the number and amount of affiliate loans that</p> <p>4 Highland carried on its balance sheet?</p> <p>5 A. Sure.</p> <p>6 Q. Can you identify the people who were</p> <p>7 responsible for that?</p> <p>8 A. The people in accounting responsible</p> <p>9 for tracking assets and liabilities in</p> <p>10 preparing all the audited financial statements</p> <p>11 every year and the quarterly unaudited</p> <p>12 financial statements that were prepared and the</p> <p>13 monthly operating reports.</p> <p>14 Q. Can you – can you name any names of</p> <p>15 the people who had the responsibilities that</p> <p>16 you just described?</p> <p>17 A. I think it changed regularly, but it</p> <p>18 would have been people in Frank's group in</p> <p>19 accounting.</p> <p>20 Q. Did Frank have any responsibility</p> <p>21 for knowing and understanding the affiliate</p> <p>22 loans that Highland carried on its balance</p> <p>23 sheet?</p> <p>24 A. Sure. I – as CFO he had to sign</p> <p>25 off on the audited financials and rep letters</p>

<p style="text-align: right;">Page 300</p> <p>1 DONDERO - 10/29/21</p> <p>2 and – yes.</p> <p>3 Q. And can you – can you identify the</p> <p>4 name of any person in the accounting group in,</p> <p>5 let's say, the three years prior to the</p> <p>6 bankruptcy who had responsibility for knowing</p> <p>7 and understanding the scope of affiliate loans</p> <p>8 that Highland carried on its balance sheet?</p> <p>9 A. No, I would just be speculating but</p> <p>10 it would be – the senior people in Frank's</p> <p>11 group would be responsible for the financial</p> <p>12 statements.</p> <p>13 Q. Are you able to name the people, the</p> <p>14 senior people in Frank's group in the couple of</p> <p>15 years prior to the bankruptcy?</p> <p>16 A. Yes, but I don't know – like</p> <p>17 David Klos was a senior person, Cliff Stoops</p> <p>18 was a senior person. There were a couple</p> <p>19 up-and-comers below them, but who did the</p> <p>20 financials – how Frank assigned the work in</p> <p>21 his group, I have no idea.</p> <p>22 Q. Did you ever ask?</p> <p>23 A. No.</p> <p>24 Q. Do you have any knowledge as you sit</p> <p>25 here today who within Frank's group had</p>	<p style="text-align: right;">Page 301</p> <p>1 DONDERO - 10/29/21</p> <p>2 responsibility for knowing and understanding</p> <p>3 the affiliate loans that Highland carried on</p> <p>4 its balance sheets?</p> <p>5 A. No.</p> <p>6 Q. And to the best of your knowledge as</p> <p>7 you sit here today, you never personally did</p> <p>8 anything to know and understand the extent and</p> <p>9 scope of the affiliate loans that Highland</p> <p>10 carried on its balance sheet; is that right?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. You appointed Mr. Waterhouse</p> <p>13 as Highland's CFO; is that right?</p> <p>14 A. I think it was appointed and</p> <p>15 recommended by Patrick Boyce, but I agreed with</p> <p>16 the selection.</p> <p>17 Q. And you –</p> <p>18 A. That – (speaking simultaneously.)</p> <p>19 Q. I apologize, are you done?</p> <p>20 A. I'm just saying that was a long time</p> <p>21 ago, but I don't remember the details exactly.</p> <p>22 Q. But you had the authority and you</p> <p>23 used that authority to appoint Frank as CFO;</p> <p>24 correct?</p> <p>25 MS. DEITSCH-PEREZ: There's a lag in</p>
<p style="text-align: right;">Page 302</p> <p>1 DONDERO - 10/29/21</p> <p>2 the video. I don't know if it matters, but</p> <p>3 for a while Jim was frozen. And I know</p> <p>4 because – since there was voice and no –</p> <p>5 his mouth wasn't moving. So let's just –</p> <p>6 if the videographer sees there is a</p> <p>7 problem, please let us know.</p> <p>8 Q. I –</p> <p>9 A. Yes. I'm sorry, could you just</p> <p>10 repeat the question regarding Frank, please?</p> <p>11 Q. Sure.</p> <p>12 As the president of Highland, did</p> <p>13 you have the authority and did you exercise</p> <p>14 that authority to appoint him as Highland's</p> <p>15 CFO?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Do you recall when you</p> <p>18 appointed Mr. Waterhouse CFO of Highland?</p> <p>19 A. No.</p> <p>20 Q. Was it more than five years prior to</p> <p>21 the bankruptcy?</p> <p>22 A. Yes.</p> <p>23 Q. As the president – during the time</p> <p>24 that you served as president of Highland, did</p> <p>25 you believe that Mr. Waterhouse fulfilled his</p>	<p style="text-align: right;">Page 303</p> <p>1 DONDERO - 10/29/21</p> <p>2 duties as chief financial officer?</p> <p>3 A. Yes.</p> <p>4 Q. Can you recall anything that</p> <p>5 Mr. Waterhouse did in his capacity as</p> <p>6 Highland's CFO that did not comport with your</p> <p>7 expectations?</p> <p>8 A. I think we will talk about some of</p> <p>9 those today.</p> <p>10 Q. Okay. Do you have any reason to</p> <p>11 believe that Mr. Waterhouse ever breached his</p> <p>12 duties to Highland during the time that you</p> <p>13 served as president?</p> <p>14 COURT REPORTER: We can't hear you</p> <p>15 speaking.</p> <p>16 Q. We haven't heard any portion of your</p> <p>17 answer, Mr. Dondero.</p> <p>18 MR. MORRIS: I don't know if people</p> <p>19 can – can hear, but I cannot hear</p> <p>20 Mr. Dondero.</p> <p>21 COURT REPORTER: I can't either.</p> <p>22 MR. MORRIS: Yeah, Deborah, can you</p> <p>23 speak, please.</p> <p>24 COURT REPORTER: They're on the same</p> <p>25 speaker.</p>

<p style="text-align: right;">Page 304</p> <p>1 DONDERO - 10/29/21</p> <p>2 VIDEOGRAPHER: Do we want to go off</p> <p>3 the record?</p> <p>4 MR. MORRIS: Yes, please.</p> <p>5 VIDEOGRAPHER: Off the record,</p> <p>6 10:41.</p> <p>7 (Recess taken 10:41 a.m. to 10:47 a.m.)</p> <p>8 VIDEOGRAPHER: Back on the record,</p> <p>9 10:47.</p> <p>10 Q. Okay. Let me just ask the question</p> <p>11 again so the record is clean, Mr. Dondero.</p> <p>12 Do you have any reason to believe as</p> <p>13 you sit here right now that Mr. Waterhouse ever</p> <p>14 breached his duties to Highland during the time</p> <p>15 that you served as president?</p> <p>16 MS. DEITSCH-PEREZ: Asked and</p> <p>17 answered.</p> <p>18 A. Yeah, I think I did ask and answer</p> <p>19 that. Again, not intentionally, not</p> <p>20 maliciously. I am – I guess things we're</p> <p>21 going to talk about today are for periods of</p> <p>22 time after I was president, so...</p> <p>23 Q. Right. That is going to be the next</p> <p>24 question that I ask. But to be clear – I just</p> <p>25 want to have a clear record – during the time</p>	<p style="text-align: right;">Page 305</p> <p>1 DONDERO - 10/29/21</p> <p>2 that you were president, do you have any reason</p> <p>3 to believe that Mr. Waterhouse breached his</p> <p>4 duties to Highland?</p> <p>5 MS. DEITSCH-PEREZ: Asked and</p> <p>6 answered. This is the third time.</p> <p>7 A. No.</p> <p>8 MR. MORRIS: It is actually not.</p> <p>9 Q. But thank you, Mr. Dondero. I</p> <p>10 appreciate that.</p> <p>11 After you ceased to be president of</p> <p>12 Highland, do you have any reason to believe</p> <p>13 that Mr. Waterhouse breached his duties to</p> <p>14 Highland?</p> <p>15 A. Breached his duties to – I don't –</p> <p>16 I don't know if it is – I don't want to – I</p> <p>17 don't want to make a judgment overall. When we</p> <p>18 talk about the notes we can make conclusions</p> <p>19 then.</p> <p>20 Q. All right. But you're not able to</p> <p>21 tell me in response to my question whether you</p> <p>22 believe today that Mr. Waterhouse breached his</p> <p>23 duties to Highland after the time that you</p> <p>24 served as president?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p style="text-align: right;">Page 306</p> <p>1 DONDERO - 10/29/21</p> <p>2 form of the question.</p> <p>3 A. I don't want to comment off the top</p> <p>4 of my head, but I've highlighted that we will</p> <p>5 discuss it around the note issue.</p> <p>6 Q. Okay. You are familiar with an</p> <p>7 entity called Highland Capital Management Fund</p> <p>8 Advisors, L.P.; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And we're going to refer to that</p> <p>11 entity as HCMFA. Is that okay?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know who owns HCMFA?</p> <p>14 A. I believe it is myself and</p> <p>15 Mark Okada.</p> <p>16 Q. Okay. And do you have an</p> <p>17 understanding as to – as to the percentage of</p> <p>18 each of your interests, ownership interests in</p> <p>19 HCMFA?</p> <p>20 A. No, and I don't know the entities.</p> <p>21 I don't know if I own it directly or through</p> <p>22 Dugaboy. And I do believe Okada tends to use</p> <p>23 his trusts, but I don't know the percentages</p> <p>24 either.</p> <p>25 Q. Do you own a – do you own a</p>	<p style="text-align: right;">Page 307</p> <p>1 DONDERO - 10/29/21</p> <p>2 major- – withdrawn.</p> <p>3 Do you directly or indirectly own a</p> <p>4 majority of the ownership interests in HCMFA?</p> <p>5 A. I believe so.</p> <p>6 Q. Okay. And do you control HCMFA?</p> <p>7 A. Yes.</p> <p>8 Q. And do you know when HCMFA was</p> <p>9 created?</p> <p>10 A. No, I do not.</p> <p>11 Q. Do you know if it was before or</p> <p>12 after 2010?</p> <p>13 A. I don't know.</p> <p>14 Q. Have you controlled HCMFA since the</p> <p>15 time it was created?</p> <p>16 A. I believe so, but I don't know for</p> <p>17 sure.</p> <p>18 Q. Can you think of any period of time</p> <p>19 when you didn't control HCMFA?</p> <p>20 A. I don't know. I don't remember the</p> <p>21 ownership structure prior and I don't remember</p> <p>22 when it started, so I don't know.</p> <p>23 Q. Okay. I'm asking about control and</p> <p>24 not ownership.</p> <p>25 Can you think of any period of time</p>

<p>Page 308</p> <p>1 DONDERO - 10/29/21</p> <p>2 when you did not control HCMFA?</p> <p>3 A. I don't know.</p> <p>4 Q. Okay. Can you tell me what the</p> <p>5 nature of HCMFA's business is?</p> <p>6 A. It largely housed our mutual funds.</p> <p>7 Q. What does it mean to house mutual</p> <p>8 funds?</p> <p>9 A. It managed – it managed the mutual</p> <p>10 funds from a portfolio asset side and captured</p> <p>11 the management fees as the advisor or sub</p> <p>12 advisor – I can't remember the structure. I</p> <p>13 can't remember if it was the advisor and</p> <p>14 Highland was the sub advisor or vice versa, but</p> <p>15 in general, a good portion, or most of the</p> <p>16 portfolio team that managed the mutual funds</p> <p>17 was employed at HCMFA.</p> <p>18 Q. Do you have a title with HCMFA</p> <p>19 today?</p> <p>20 A. I don't know.</p> <p>21 Q. Do you know who the president of</p> <p>22 HCMFA is?</p> <p>23 A. I would believe – I would – I</p> <p>24 would think I am, but I don't know.</p> <p>25 Q. Do you know of any title that you</p>	<p>Page 309</p> <p>1 DONDERO - 10/29/21</p> <p>2 have at HCMFA today?</p> <p>3 A. I know I'm the portfolio manager on</p> <p>4 a bunch of the funds, one of usually two or</p> <p>5 three portfolio managers, and I believe I'm the</p> <p>6 president, but I don't know beyond that.</p> <p>7 Q. Okay. Did Frank Waterhouse serve as</p> <p>8 treasurer of HCMFA at any point in time?</p> <p>9 A. I don't know. I don't know. I</p> <p>10 just – I don't know. I don't remember.</p> <p>11 MR. MORRIS: Can I ask my – my</p> <p>12 colleague to please put up a document that</p> <p>13 was premarked as Exhibit 35 to see if I can</p> <p>14 refresh your recollection.</p> <p>15 MS. DEITSCH-PEREZ: Is that in the</p> <p>16 book that you sent over?</p> <p>17 MR. MORRIS: No. She will post it</p> <p>18 and she will put it in the chat room.</p> <p>19 Q. Are you able to see that,</p> <p>20 Mr. Dondero?</p> <p>21 A. Yes.</p> <p>22 Q. Can you see that this is an</p> <p>23 incumbency certificate?</p> <p>24 A. Yes.</p> <p>25 Q. Do you know what an incumbency</p>
<p>Page 310</p> <p>1 DONDERO - 10/29/21</p> <p>2 certificate is?</p> <p>3 A. I'm reading it here for a second. I</p> <p>4 guess it is an officer statement or signature</p> <p>5 authority, or some combination thereof.</p> <p>6 Q. Is that your signature at the bottom</p> <p>7 of this document?</p> <p>8 A. Yes.</p> <p>9 Q. And do you see that this is an</p> <p>10 incumbency certificate for HCMFA that you</p> <p>11 signed effective as of April 11th, 2019?</p> <p>12 A. Yes.</p> <p>13 Q. Do you see that Frank Waterhouse is</p> <p>14 identified as the treasurer of HCMFA as of that</p> <p>15 date?</p> <p>16 A. Yes.</p> <p>17 Q. Does that refresh your recollection</p> <p>18 that Mr. Waterhouse served as the treasurer of</p> <p>19 HCMFA?</p> <p>20 A. It seems to be an authoritative</p> <p>21 document, but I didn't have a recollection.</p> <p>22 Q. Do you know of anybody else who has</p> <p>23 ever served as the treasurer of HCMFA other</p> <p>24 than Mr. Waterhouse?</p> <p>25 A. I don't recall.</p>	<p>Page 311</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Did you, in your capacity as the</p> <p>3 person who was in control of HCMFA, appoint</p> <p>4 Mr. Waterhouse as the treasurer of that entity?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. It appears to me that that's what</p> <p>8 this incumbency certificate does, but...</p> <p>9 Q. Is it fair to say that you knew for</p> <p>10 at least a few years prior to the petition date</p> <p>11 that Mr. Waterhouse was simultaneously serving</p> <p>12 as Highland's CFO and HCMFA's treasurer?</p> <p>13 A. No. I mean, like I said, I don't</p> <p>14 remember, and a lot of the officers had</p> <p>15 multiple roles and multiple entities. I mean,</p> <p>16 it is not surprising, but I didn't have any</p> <p>17 recollection.</p> <p>18 Q. Are you aware that Mr. Waterhouse</p> <p>19 served in any capacity in the Highland universe</p> <p>20 of companies other than as CFO of Highland</p> <p>21 Capital Management, L.P.?</p> <p>22 A. I would – I would assume he would</p> <p>23 have a position like this in multiple other</p> <p>24 entities, but I don't know which ones or what</p> <p>25 titles he would have off the top of my head.</p>

<p style="text-align: right;">Page 312</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Is it fair to say, though, that he</p> <p>3 wouldn't have obtained any of those titles</p> <p>4 without your knowledge and approval?</p> <p>5 A. It is – it is fair to say he was –</p> <p>6 he had – the lawyers or whoever worked on</p> <p>7 general corporate structuring, Frank was a</p> <p>8 senior officer in good standing, so they would</p> <p>9 have used him as appropriate in different</p> <p>10 things.</p> <p>11 So to that extent, I guess I approve</p> <p>12 it, but I sign hundreds of things like this.</p> <p>13 Would – you know, would I have been</p> <p>14 specifically aware or remember – remember it</p> <p>15 is a very low likelihood.</p> <p>16 Q. Is there any position that</p> <p>17 Mr. Waterhouse has ever held that you learned</p> <p>18 about and you objected to on the grounds that</p> <p>19 you hadn't approved it?</p> <p>20 A. No, not that I recall.</p> <p>21 Q. Okay. Do you know if Mr. Waterhouse</p> <p>22 held any positions with any of the retail</p> <p>23 funds?</p> <p>24 A. I don't know.</p> <p>25 Q. He may have, you just don't recall;</p>	<p style="text-align: right;">Page 313</p> <p>1 DONDERO - 10/29/21</p> <p>2 is that right?</p> <p>3 A. That is correct.</p> <p>4 Q. And you can't identify any title</p> <p>5 that Mr. Waterhouse held during the time that</p> <p>6 you served as Highland's president other than</p> <p>7 CFO of Highland. Do I have that right?</p> <p>8 A. No, I don't think that is fair.</p> <p>9 Q. Okay.</p> <p>10 A. I mean – I mean, he was CFO, but he</p> <p>11 was other things before he was CFO. And as we</p> <p>12 were just saying, he's – he's treasurer on</p> <p>13 this incumbency certificate, but I think he</p> <p>14 might have been on other incumbency</p> <p>15 certificates, so I think your – your summary</p> <p>16 was too narrow.</p> <p>17 Q. Okay. Can you identify any position</p> <p>18 that Mr. Waterhouse held at the same time that</p> <p>19 he is CFO of Highland other than treasurer of</p> <p>20 HCMFA as reflected on this document?</p> <p>21 A. I can't recall, but I imagine there</p> <p>22 to be others.</p> <p>23 Q. And to the extent there are others,</p> <p>24 is it fair to say that you knew at the time</p> <p>25 that Mr. Waterhouse was serving in more than</p>
<p style="text-align: right;">Page 314</p> <p>1 DONDERO - 10/29/21</p> <p>2 one role?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And in his capacity as CFO of</p> <p>5 Highland, did he report directly to you?</p> <p>6 A. Yes.</p> <p>7 Q. In his capacity as treasurer of</p> <p>8 HCMFA, did he report directly to you?</p> <p>9 A. Yeah, it appears that, yes, that is</p> <p>10 how it was structured.</p> <p>11 Q. Can you think of any position that</p> <p>12 Mr. Waterhouse ever held in the Highland family</p> <p>13 of companies where he didn't report directly to</p> <p>14 you?</p> <p>15 A. I can't – I can't think of any.</p> <p>16 Q. Is Mr. Waterhouse the treasurer of</p> <p>17 HCMFA today?</p> <p>18 A. I don't know. I'm not aware of any</p> <p>19 changes, nor did I orchestrate any changes, but</p> <p>20 I don't know for sure.</p> <p>21 Q. Can you identify any position that</p> <p>22 Mr. Waterhouse holds with any former affiliated</p> <p>23 company of Highland today?</p> <p>24 A. Again, I'm not aware of any changes,</p> <p>25 nor did I orchestrate or precipitate any</p>	<p style="text-align: right;">Page 315</p> <p>1 DONDERO - 10/29/21</p> <p>2 changes. With the formation of Skyview, I</p> <p>3 don't know if there was changes. I'm not</p> <p>4 aware.</p> <p>5 Q. Have you considered firing</p> <p>6 Mr. Waterhouse from any of the positions that</p> <p>7 he holds with any of the companies that were</p> <p>8 formerly affiliated with Highland?</p> <p>9 A. No.</p> <p>10 Q. As the president of HCMFA –</p> <p>11 withdrawn.</p> <p>12 As the person who was in control of</p> <p>13 HCMFA, did you have any responsibility for</p> <p>14 being familiar with HCMFA's debts and</p> <p>15 obligations?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. I don't know.</p> <p>19 Q. Did you ever do anything in your</p> <p>20 capacity as the person in control of HCMFA to</p> <p>21 familiarize yourself with HCMFA's debts and</p> <p>22 obligations?</p> <p>23 A. Not during – I mean, not prior to</p> <p>24 bankruptcy.</p> <p>25 Q. So before the bankruptcy, you didn't</p>

<p style="text-align: right;">Page 316</p> <p>1 DONDERO - 10/29/21</p> <p>2 take any steps to familiarize yourself with</p> <p>3 HCMFA's debts and obligations. Do I have that</p> <p>4 right?</p> <p>5 A. Correct, not specifically.</p> <p>6 Q. Okay. Who was responsible for</p> <p>7 knowing and understanding the scope and extent</p> <p>8 of HCMFA's debts and obligations?</p> <p>9 A. That would have fallen on Frank and</p> <p>10 his group.</p> <p>11 Q. Okay. Do you have an understanding</p> <p>12 as to who was authorized to incur obligations</p> <p>13 on behalf of HCMFA?</p> <p>14 A. I mean, beyond – beyond due course,</p> <p>15 I struggle to see why it would be anybody other</p> <p>16 than me, but I don't know.</p> <p>17 Q. Do you know if Mr. Waterhouse was</p> <p>18 authorized as the treasurer of HCMFA to incur</p> <p>19 obligations on its behalf?</p> <p>20 A. He wasn't the senior operating or</p> <p>21 executive positions there. So the answer is</p> <p>22 no, beyond, you know – beyond the normal</p> <p>23 course of operating expenses or whatever, but</p> <p>24 it would – he would never be the person on</p> <p>25 anything of significance.</p>	<p style="text-align: right;">Page 317</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. How do you define "significance"?</p> <p>3 A. Like waiving fees on a mutual fund,</p> <p>4 purchasing another mutual fund, yeah, things</p> <p>5 like that.</p> <p>6 Q. Was there any document or policy</p> <p>7 that you are aware of that specifically</p> <p>8 identifies the scope of Mr. Waterhouse's</p> <p>9 authority as the treasurer of HCMFA?</p> <p>10 A. No.</p> <p>11 Q. Is there anything that you are aware</p> <p>12 of that specifically limits Mr. Waterhouse's</p> <p>13 authority other than what might be in your</p> <p>14 head?</p> <p>15 A. No, I would – I would say what is</p> <p>16 in my head is – would be typical industry</p> <p>17 practice. You wouldn't – you wouldn't have</p> <p>18 executive vice presidents or ownership defined</p> <p>19 if you were going to delegate everything to an</p> <p>20 employee three levels down, you know.</p> <p>21 MS. DEITSCH-PEREZ: Okay. John,</p> <p>22 I've had a request from Davor to take a</p> <p>23 quick restroom break, so –</p> <p>24 MR. MORRIS: You know, I really –</p> <p>25 Davor, I'm happy to accommodate, but at</p>
<p style="text-align: right;">Page 318</p> <p>1 DONDERO - 10/29/21</p> <p>2 some point we have got to be able to get</p> <p>3 more than 10 minutes of testimony in a row.</p> <p>4 So let's take a short break.</p> <p>5 MS. DEITSCH-PEREZ: Thank you.</p> <p>6 VIDEOGRAPHER: Going off the record.</p> <p>7 The time is 11:08.</p> <p>8 (Recess taken 11:08 a.m. to 11:16 a.m.)</p> <p>9 VIDEOGRAPHER: Back on the record,</p> <p>10 11:16.</p> <p>11 Q. Mr. Dondero, did you communicate</p> <p>12 with anybody on the break about the substance</p> <p>13 of your testimony?</p> <p>14 A. No.</p> <p>15 Q. As treasurer of HCMFA, did</p> <p>16 Mr. Waterhouse's responsibilities include being</p> <p>17 familiar with HCMFA's debts and obligations?</p> <p>18 A. Yes.</p> <p>19 Q. Do you have any reason to believe as</p> <p>20 you sit here today that Mr. Waterhouse failed</p> <p>21 to fulfill his responsibilities as treasurer of</p> <p>22 HCMFA and familiarize himself with their debts</p> <p>23 and responsibilities?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">Page 319</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. I don't know.</p> <p>3 Q. I appreciate that you don't know,</p> <p>4 but do you have any reason as you sit here</p> <p>5 today to believe that he failed to fulfill that</p> <p>6 particular responsibility?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. Are you an authorized</p> <p>9 signatory on HCMFA's bank accounts?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know who the authorized</p> <p>12 signatories are on HCMFA's bank accounts?</p> <p>13 A. No.</p> <p>14 Q. Do you know whether anybody now</p> <p>15 employed or previously employed by Highland was</p> <p>16 an authorized signatory with respect to any of</p> <p>17 HCMFA's bank accounts?</p> <p>18 A. I don't know.</p> <p>19 Q. Do you know whether Mr. Waterhouse</p> <p>20 was an authorized signatory on any of HCMFA's</p> <p>21 bank accounts?</p> <p>22 A. I don't know how he had – had it</p> <p>23 set up. There would have been, I imagine,</p> <p>24 checks and balances. We run, as far as I know,</p> <p>25 a compliant accounting group, you know, with</p>

<p>Page 320</p> <p>1 DONDERO - 10/29/21</p> <p>2 the right audit controls, et cetera. So I</p> <p>3 would imagine there would have been somebody</p> <p>4 preparing it and multiple signatures or</p> <p>5 multiple sign-offs on wires, but I have no</p> <p>6 awareness of this. I mean, I would believe</p> <p>7 that it was done compliantly and correctly, but</p> <p>8 I don't have any specific awareness.</p> <p>9 Q. Okay. Do you know Lauren Thedford?</p> <p>10 A. Yes.</p> <p>11 Q. And was Ms. Thedford an employee of</p> <p>12 Highland at one time?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall what position she held</p> <p>15 at any particular point in time?</p> <p>16 A. I believe she held several different</p> <p>17 positions over the years, but I remember most</p> <p>18 as a corporate attorney working on document –</p> <p>19 documents when we – we do new funds or amend</p> <p>20 old funds.</p> <p>21 Q. Okay. Do you recall whether she</p> <p>22 served as an officer of HCMFA?</p> <p>23 A. Wasn't her name on the incumbency</p> <p>24 certificate we had up earlier?</p> <p>25 Q. It was. We can put it back up if</p>	<p>Page 321</p> <p>1 DONDERO - 10/29/21</p> <p>2 you want to look at that.</p> <p>3 A. No, but I think that is – that is</p> <p>4 the answer, but that is my only awareness.</p> <p>5 Q. Okay. Do you have – do you have –</p> <p>6 do you know whether she was ever appointed to</p> <p>7 any position within the Highland corporate</p> <p>8 family other than as an attorney with Highland</p> <p>9 and as the secretary of HCMFA?</p> <p>10 A. I don't know.</p> <p>11 Q. Other than Ms. Waterhouse –</p> <p>12 withdrawn.</p> <p>13 Other than Mr. Waterhouse and</p> <p>14 Ms. Thedford, can you identify any current or</p> <p>15 former employee of Highland that ever served as</p> <p>16 an officer of HCMFA?</p> <p>17 A. I don't know.</p> <p>18 Q. Okay. Can you identify any current</p> <p>19 or former employee of Highland who was</p> <p>20 simultaneously also an employee of HCMFA?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. You mean somebody who was a dual</p> <p>24 employee?</p> <p>25 Q. Yeah, who was actually – yeah, to</p>
<p>Page 322</p> <p>1 DONDERO - 10/29/21</p> <p>2 be clear, who was actually employed by both,</p> <p>3 who received, you know, income from both.</p> <p>4 A. I don't know regarding income, but</p> <p>5 some of that historic portfolio managers like</p> <p>6 Michael Gregory or Jonathan Lamensdorf, they</p> <p>7 did work for HCMFA primarily, but they also did</p> <p>8 other things for Highland. I don't know how</p> <p>9 their compensation or their bonuses were split.</p> <p>10 I just – I wouldn't have awareness of that.</p> <p>11 Q. Let's move on to NexPoint. You're</p> <p>12 familiar with an entity called NexPoint</p> <p>13 Advisors, L.P.; correct?</p> <p>14 A. Yes.</p> <p>15 Q. We will refer to that as NexPoint,</p> <p>16 okay?</p> <p>17 A. Sure.</p> <p>18 Q. Do you know who owns NexPoint?</p> <p>19 A. Directly or indirectly, I believe I</p> <p>20 do.</p> <p>21 Q. Okay. And do you control NexPoint?</p> <p>22 A. Yes.</p> <p>23 Q. And do you know when NexPoint was</p> <p>24 created?</p> <p>25 A. More than five years ago, but I</p>	<p>Page 323</p> <p>1 DONDERO - 10/29/21</p> <p>2 don't remember when.</p> <p>3 Q. Can you tell me generally the nature</p> <p>4 of NexPoint's business?</p> <p>5 A. It is generally real estate related.</p> <p>6 Q. Have you controlled NexPoint</p> <p>7 throughout its corporate existence, to the best</p> <p>8 of your knowledge?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have a title with NexPoint</p> <p>11 today?</p> <p>12 A. I believe I'm president, but I don't</p> <p>13 know for sure.</p> <p>14 Q. Did you appoint Mr. Waterhouse to</p> <p>15 serve as treasurer of NexPoint?</p> <p>16 A. I don't know.</p> <p>17 MR. MORRIS: Please put up Exhibit</p> <p>18 37.</p> <p>19 Q. This is another incumbency</p> <p>20 certificate, sir?</p> <p>21 A. Yes.</p> <p>22 Q. And do you see, is that your</p> <p>23 signature at the bottom?</p> <p>24 A. Looks like it, yes.</p> <p>25 Q. And does that refresh your</p>

<p>Page 324</p> <p>1 DONDERO - 10/29/21</p> <p>2 recollection that you personally identified</p> <p>3 Mr. Waterhouse as the treasurer of NexPoint</p> <p>4 Advisors, L.P. effective as of April 11th,</p> <p>5 2019?</p> <p>6 A. No, I mean, not – no.</p> <p>7 Q. Do you have any reason to doubt that</p> <p>8 Mr. Waterhouse served as the treasurer of</p> <p>9 NexPoint Advisors prior to the petition date?</p> <p>10 A. No, I don't have a reason to</p> <p>11 disagree with it. I just didn't have an</p> <p>12 awareness. And when you asked me earlier, the</p> <p>13 thing that was running through my mind is that</p> <p>14 it could have been, you know, Brian Mitts who</p> <p>15 has a strong accounting background at NexPoint.</p> <p>16 I just wasn't – I didn't know, based on</p> <p>17 recollection, who was treasurer.</p> <p>18 Q. Okay. Were you aware that – but</p> <p>19 you were aware, were you not, that</p> <p>20 Mr. Waterhouse wore multiple hats?</p> <p>21 MS. DEITSCH-PEREZ: Objection to</p> <p>22 form.</p> <p>23 Q. Withdrawn.</p> <p>24 You were aware, were you not, sir,</p> <p>25 that during the time that you served as</p>	<p>Page 325</p> <p>1 DONDERO - 10/29/21</p> <p>2 president of Highland, that Mr. Waterhouse</p> <p>3 served in capacities with respect to affiliated</p> <p>4 companies?</p> <p>5 A. I was aware that multiple senior</p> <p>6 executives had multiple titles at multiple</p> <p>7 different entities, but I didn't have specific</p> <p>8 awareness whatsoever on entities that Frank was</p> <p>9 or was not involved in.</p> <p>10 Q. Okay. But to the extent that he</p> <p>11 held a title with one of the affiliated</p> <p>12 companies, those affiliated companies would</p> <p>13 have been managed or controlled by you;</p> <p>14 correct?</p> <p>15 A. Generally.</p> <p>16 Q. You can't think of any title that he</p> <p>17 held with an affiliated company that wasn't</p> <p>18 managed by you, can you?</p> <p>19 A. No, not off the top of my head.</p> <p>20 Q. And you knew and intended prior to</p> <p>21 the petition date to have Mr. Waterhouse serve</p> <p>22 in multiple roles; is that fair?</p> <p>23 A. Yes.</p> <p>24 Q. Have you ever considered firing</p> <p>25 Mr. Waterhouse from his position as treasurer</p>
<p>Page 326</p> <p>1 DONDERO - 10/29/21</p> <p>2 of NexPoint Advisors?</p> <p>3 A. No.</p> <p>4 Q. Okay. As the president of NexPoint</p> <p>5 Advisors, do you believe that you had a</p> <p>6 responsibility to familiarize yourself with</p> <p>7 NexPoint's debts and obligations?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. Just generally.</p> <p>11 Q. Okay. Did you do anything to</p> <p>12 generally inform yourself of NexPoint's debts</p> <p>13 and obligations?</p> <p>14 A. Not – not specifically that I can</p> <p>15 recall.</p> <p>16 Q. Can you recall doing anything to</p> <p>17 familiarize yourself with NexPoint's debts and</p> <p>18 obligations at any time?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. Not that I recall.</p> <p>22 Q. Did you ever look at NexPoint's</p> <p>23 balance sheet?</p> <p>24 A. Not – not that I – not that I</p> <p>25 recall.</p>	<p>Page 327</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Do you know whether NexPoint's</p> <p>3 balance sheet reflected obligations that it</p> <p>4 carried as liabilities that were due and owing</p> <p>5 to Highland?</p> <p>6 A. I was aware generally of the notes,</p> <p>7 but I didn't study the NexPoint balance sheet.</p> <p>8 Q. Do you believe that Mr. Waterhouse</p> <p>9 had any responsibility as NexPoint's treasurer</p> <p>10 to familiarize himself with NexPoint's debts</p> <p>11 and obligations?</p> <p>12 A. Yeah. I mean, the role is different</p> <p>13 and the burden is different, and Frank and his</p> <p>14 team orchestrated all the audits and compliance</p> <p>15 statements and regulatory stuff for all of the</p> <p>16 funds managed by NexPoint.</p> <p>17 Q. Well, you personally were</p> <p>18 responsible for Highland's audited financial</p> <p>19 statements, weren't you?</p> <p>20 MS. DEITSCH-PEREZ: Objection, form.</p> <p>21 A. No. I mean, "responsible" is not</p> <p>22 the right word. I mean, we – I have to – as</p> <p>23 the senior most executive, I have to – to</p> <p>24 sign – sign statements regarding completeness</p> <p>25 and no known frauds and those kinds of things,</p>

<p style="text-align: right;">Page 328</p> <p>1 DONDERO - 10/29/21</p> <p>2 but I am in no way involved in the preparation.</p> <p>3 Q. We will talk about that in a bit.</p> <p>4 Do you have any reason to believe</p> <p>5 today that Mr. Waterhouse failed to fulfill his</p> <p>6 responsibilities as treasurer of NexPoint to</p> <p>7 familiarize himself with NexPoint's debts and</p> <p>8 obligations?</p> <p>9 A. I don't know.</p> <p>10 Q. You can't identify any particular</p> <p>11 reason that you might have for concluding that</p> <p>12 Mr. Waterhouse failed to fulfill his duties as</p> <p>13 treasurer of NexPoint to familiarize himself</p> <p>14 with NexPoint's duties and respons – duties</p> <p>15 and obligations; correct?</p> <p>16 A. Yes, I don't know.</p> <p>17 Q. Okay. Do you know who the</p> <p>18 authorized signatories are on NexPoint's bank</p> <p>19 accounts?</p> <p>20 A. No.</p> <p>21 Q. Do you know if you're an authorized</p> <p>22 signatory on NexPoint's bank accounts?</p> <p>23 A. I don't know.</p> <p>24 Q. Do you know if Mr. Waterhouse is an</p> <p>25 authorized signatory on NexPoint's bank</p>	<p style="text-align: right;">Page 329</p> <p>1 DONDERO - 10/29/21</p> <p>2 accounts?</p> <p>3 A. I don't know.</p> <p>4 Q. Do you know whether there is any</p> <p>5 current or former employee of Highland who did</p> <p>6 not hold an officer position at NexPoint who</p> <p>7 would have been an authorized signatory on</p> <p>8 NexPoint's bank accounts?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. I don't know.</p> <p>12 Q. Can you identify any current or</p> <p>13 former employee of Highland who served as an</p> <p>14 officer of NexPoint at any time other than</p> <p>15 Ms. Thedford and Mr. Waterhouse?</p> <p>16 A. I don't know.</p> <p>17 Q. Okay. Let's go to HCMS. Are you</p> <p>18 familiar with an entity called Highland Capital</p> <p>19 Management Services, Inc.?</p> <p>20 A. Generally, yes.</p> <p>21 Q. And can we refer to that as HCMS?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have a direct or indirect</p> <p>24 ownership interest in HCMS?</p> <p>25 A. I believe so.</p>
<p style="text-align: right;">Page 330</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And do you own a majority of the</p> <p>3 interest directly or indirectly in HCMS?</p> <p>4 A. I believe so.</p> <p>5 Q. Do you control HCMS?</p> <p>6 A. I believe so.</p> <p>7 Q. Have you – has there ever been a</p> <p>8 period of time in HCMS's corporate existence</p> <p>9 where you did not control that entity?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Do you recall when HCMS was created?</p> <p>12 A. More than five years ago, but I</p> <p>13 don't remember when.</p> <p>14 Q. Do you have an understanding of the</p> <p>15 nature of HCMS's business?</p> <p>16 A. It manages some assets, and it was</p> <p>17 trying to create track records that then could</p> <p>18 be marketed.</p> <p>19 Q. What does it mean to create a track</p> <p>20 record that could be marketed?</p> <p>21 A. You execute investments and</p> <p>22 investment strategy that you can refine and</p> <p>23 articulate and show good results to potential</p> <p>24 third-party investors as – as evidence that</p> <p>25 you can do it. And then that track record is</p>	<p style="text-align: right;">Page 331</p> <p>1 DONDERO - 10/29/21</p> <p>2 something the investors are willing to take a</p> <p>3 chance on and then give you separate account</p> <p>4 money along those lines.</p> <p>5 Q. Do you have a title with HCMS today?</p> <p>6 A. I don't know.</p> <p>7 Q. But you do control the entity; is</p> <p>8 that fair?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form, asked and answered.</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. Do you know whether</p> <p>13 Mr. Waterhouse has ever served as an officer of</p> <p>14 HCMS?</p> <p>15 A. I have no idea.</p> <p>16 Q. Can you identify any person in the</p> <p>17 world who has ever served as an officer of</p> <p>18 HCMS?</p> <p>19 A. I don't know what the incumbency</p> <p>20 certificate would look like for services, but</p> <p>21 I'm willing to be refreshed.</p> <p>22 Q. Do you know if anybody ever served</p> <p>23 as the chief – withdrawn.</p> <p>24 Did HCMF ever have anybody serve in</p> <p>25 the capacity of chief financial officer?</p>

<p>Page 332</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. The subject of that question was</p> <p>3 HCMF. Is that what you meant to say, or did</p> <p>4 you mean Services?</p> <p>5 Q. No, I apologize. Thank you for the</p> <p>6 clarification. I did mean HCMS, so let me try</p> <p>7 again.</p> <p>8 Has anybody ever served in the</p> <p>9 capacity of chief financial officer of HCMS?</p> <p>10 A. HCMF.</p> <p>11 MS. DEITSCH-PEREZ: S.</p> <p>12 A. Not –</p> <p>13 Q. S.</p> <p>14 A. Not of Services – not that –</p> <p>15 again, I don't know. I'm willing to be</p> <p>16 refreshed, but I – I have no awareness.</p> <p>17 Q. Okay. As president – as the person</p> <p>18 in control of HCMS, do you believe you had any</p> <p>19 responsibility to familiarize yourself with</p> <p>20 that entity's debts and obligations?</p> <p>21 A. Again, just generally, to the extent</p> <p>22 that they were material or an issue or</p> <p>23 whatever, but no more than generally.</p> <p>24 Q. Can you describe anything you ever</p> <p>25 did to generally familiarize yourself with</p>	<p>Page 333</p> <p>1 DONDERO - 10/29/21</p> <p>2 HCMS's debts and obligations?</p> <p>3 A. I guess my answer, which would apply</p> <p>4 to all of these entities, is awareness to know</p> <p>5 that the amounts were de minimis relative to</p> <p>6 the value of the entity, and the debt service</p> <p>7 costs or issues were very de minimis relative</p> <p>8 to the entities, but beyond that, I didn't</p> <p>9 study them.</p> <p>10 Q. Well, did – did HCMFA have</p> <p>11 obligations to HCMLP that you would</p> <p>12 characterize as di minimis from HCMFA's</p> <p>13 perspective?</p> <p>14 A. Yeah, or just – it never had</p> <p>15 obligations that were more than de minimis.</p> <p>16 Q. As – as the person in control of</p> <p>17 HCMFA, did you ever have any concern that HCMFA</p> <p>18 would not be able to satisfy its obligations to</p> <p>19 HCMLP if – if a demand was made?</p> <p>20 A. No.</p> <p>21 Q. Okay. Was anybody charged with the</p> <p>22 responsibility of familiarizing themselves with</p> <p>23 HCMS's debts and obligations?</p> <p>24 A. Again, to differentiate or separate</p> <p>25 myself from the treasury function or from what</p>
<p>Page 334</p> <p>1 DONDERO - 10/29/21</p> <p>2 Frank and his group were doing.</p> <p>3 From my perspective, I had to be</p> <p>4 aware about it – aware of any obligations or</p> <p>5 notes or debt service costs, et cetera, but to</p> <p>6 the extent that I was aware and knew that it</p> <p>7 was de minimis, I didn't spend any time</p> <p>8 focusing on it, studying it, calculating it</p> <p>9 exactly, or anything like that.</p> <p>10 Having said that, we are highly</p> <p>11 compliant. We do – we did audits every year</p> <p>12 with reputable accounting firms that were</p> <p>13 complete and in depth. And any obligations</p> <p>14 and/or assets, de minimis or not, in my view,</p> <p>15 would nonetheless have to be reflected or</p> <p>16 captured accurately and prepared for the</p> <p>17 auditors in supplying, you know, detail or</p> <p>18 source documents or whatever, whatever they do</p> <p>19 in accounting as part of the audit function.</p> <p>20 And all that would have done – been</p> <p>21 done exactly and expertly, as far as I know,</p> <p>22 and it would have been done by Frank and his</p> <p>23 group.</p> <p>24 Q. Okay.</p> <p>25 A. That is – I'm trying to give a</p>	<p>Page 335</p> <p>1 DONDERO - 10/29/21</p> <p>2 complete answer regarding a myriad of ways</p> <p>3 you've asked me kind of the same structural</p> <p>4 questions.</p> <p>5 Q. I am, and just to be clear, I'm</p> <p>6 asking kind of the same structural questions</p> <p>7 with respect to each of the entities at issue.</p> <p>8 I think you picked up on that. I hope you</p> <p>9 don't think I'm being repetitive.</p> <p>10 You mentioned Frank and his group in</p> <p>11 the context of HCMS. Did I hear that</p> <p>12 correctly?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. HCMS did not have a shared</p> <p>15 services agreement with Highland; correct?</p> <p>16 MS. DEITSCH-PEREZ: You mean a</p> <p>17 written shared services agreement, John?</p> <p>18 Q. Do you understand the question, sir?</p> <p>19 A. Yeah. My answer would be the</p> <p>20 advisors like NexPoint and HFAM that had to</p> <p>21 have by law and regulatory statute have to have</p> <p>22 formal sub advisors and shared services</p> <p>23 agreements had formal shared services</p> <p>24 agreement.</p> <p>25 Entities that didn't need to have</p>

<p style="text-align: right;">Page 336</p> <p>1 DONDERO - 10/29/21</p> <p>2 formal written shared services agreements were</p> <p>3 often serviced similarly or – or exactly the</p> <p>4 same as those entities, but without a written</p> <p>5 agreement, but with a verbal shared services</p> <p>6 agreement providing, again, all the same</p> <p>7 similar services.</p> <p>8 And the entities that didn't have a</p> <p>9 written shared services agreement weren't</p> <p>10 getting shared services or support from any</p> <p>11 other entities other than Highland doing the</p> <p>12 same thing for them that it did for the mutual</p> <p>13 funds.</p> <p>14 Q. Okay. Can you tell me who entered</p> <p>15 into an oral shared services agreement between</p> <p>16 Highland and HCMS?</p> <p>17 A. Boy, I can imagine way back in the</p> <p>18 day it would have been myself and Frank, but he</p> <p>19 and his group understood and knew that they</p> <p>20 were doing it for all the new entities that</p> <p>21 came along, and I can't imagine it was even</p> <p>22 talked about much over the years.</p> <p>23 Q. Did – did HCMFA and NexPoint pay</p> <p>24 money to Highland under the shared services</p> <p>25 agreement until let's just say late 2020?</p>	<p style="text-align: right;">Page 337</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yeah, yes, and early into '21, I</p> <p>3 believe also.</p> <p>4 Q. Okay. As – as part of the oral</p> <p>5 agreement that you referenced, was there – was</p> <p>6 there ever an agreement that HCMS would pay any</p> <p>7 money to Highland in exchange for the services</p> <p>8 that Highland provided to it?</p> <p>9 A. I do not believe there was a</p> <p>10 financial remuneration aspect of it.</p> <p>11 Q. Okay. And do you recall during your</p> <p>12 time as president of Highland whether Highland</p> <p>13 ever received payment from HCMS for services</p> <p>14 rendered?</p> <p>15 MS. DEITSCH-PEREZ: And are we just</p> <p>16 talking about money?</p> <p>17 MR. MORRIS: Correct.</p> <p>18 A. Yeah, I don't – I don't recall</p> <p>19 moneys being – well, you know what, let me –</p> <p>20 let me clarify that a little bit.</p> <p>21 If there were any direct costs that</p> <p>22 Highland would have incurred like getting the</p> <p>23 audits done, you know, like if Price Waterhouse</p> <p>24 said, okay, give us the details on, you know,</p> <p>25 all the different entities that roll up into</p>
<p style="text-align: right;">Page 338</p> <p>1 DONDERO - 10/29/21</p> <p>2 the Highland entity.</p> <p>3 And then – and they prepared</p> <p>4 statements or did work for services, Frank and</p> <p>5 his group would have passed through those costs</p> <p>6 and expected services and/or Dugaboy or any of</p> <p>7 the other entities to pay for direct</p> <p>8 out-of-pocket costs. But it wouldn't have paid</p> <p>9 a supplemental fee or profit or anything to</p> <p>10 Highland.</p> <p>11 Q. Okay. To the best of your</p> <p>12 recollection, during the time that you were</p> <p>13 president of Highland, did Highland ever</p> <p>14 receive anything of value from HCMS on account</p> <p>15 of services other than the reimbursement of</p> <p>16 out-of-pocket expenses?</p> <p>17 A. Yeah, I'm going to go back to my</p> <p>18 comment in terms of building track record. And</p> <p>19 I would use – yeah, we had done it several</p> <p>20 times in the past and it had worked</p> <p>21 effectively. And that is – you know, yeah, I</p> <p>22 mean, the – the track record in CLO paper was</p> <p>23 what was used to track – (inaudible) – as an</p> <p>24 investor.</p> <p>25 And so, you know, to the extent that</p>	<p style="text-align: right;">Page 339</p> <p>1 DONDERO - 10/29/21</p> <p>2 the DAF wasn't paying a fee, along the way, to</p> <p>3 Highland for shared services, Highland got the</p> <p>4 benefit of the track record that was being</p> <p>5 built at the DAF to then market to third</p> <p>6 parties, which then created a revenue stream</p> <p>7 for Highland down the road.</p> <p>8 And I would say that was the same</p> <p>9 intent on Services.</p> <p>10 Q. Is there anything – anything else</p> <p>11 of value that you believe HCMS provided to</p> <p>12 Highland in exchange for the services that</p> <p>13 Highland rendered?</p> <p>14 A. That would be primarily it. I would</p> <p>15 say there is probably times where Services</p> <p>16 provided liquidity for Highland or helped on</p> <p>17 investments that Highland was involved in, but</p> <p>18 I would have to refresh myself on exactly what.</p> <p>19 Q. Is it fair to say that HCMF – HCMS</p> <p>20 never provided a revenue stream to Highland</p> <p>21 similar to the revenue stream that was provided</p> <p>22 by HCMFA and NexPoint under the shared services</p> <p>23 agreements?</p> <p>24 A. That is correct.</p> <p>25 Q. Okay. Did anybody at HCMF –</p>

<p>Page 340</p> <p>1 DONDERO - 10/29/21</p> <p>2 withdrawn.</p> <p>3 Did anybody at HCMS ever have the</p> <p>4 responsibility for familiarizing themselves</p> <p>5 with HCMS' debts and obligations?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. Frank and his team, as part of</p> <p>9 preparing the audited financials for all the</p> <p>10 entities, would have definitively been aware of</p> <p>11 all of them. Who else on the services</p> <p>12 incumbency certificate or – would be aware or</p> <p>13 have knowledge, I don't know.</p> <p>14 Q. Okay. And when you refer to "Frank</p> <p>15 and his team," are any of them acting as an</p> <p>16 officer or employee of HCMS in what you are</p> <p>17 thinking about?</p> <p>18 A. I – I don't know. I don't know.</p> <p>19 Did – we haven't – have we looked at the</p> <p>20 incumbency certificate for services?</p> <p>21 Q. No.</p> <p>22 A. I don't know. I don't know off the</p> <p>23 top of my head.</p> <p>24 Q. Okay. Let's just finish this up.</p> <p>25 Can you identify any current or</p>	<p>Page 341</p> <p>1 DONDERO - 10/29/21</p> <p>2 former Highland employee who served as an</p> <p>3 officer of HCMS at any time?</p> <p>4 A. No, I would need to be refreshed.</p> <p>5 Q. Okay. Can you identify –</p> <p>6 withdrawn. Let's go to the last one, HCRE.</p> <p>7 Are you familiar with an entity</p> <p>8 called HCRE Partners, LLC?</p> <p>9 A. Yes.</p> <p>10 Q. And is that entity now known as</p> <p>11 NexPoint Real Estate Partners, LLC?</p> <p>12 A. You know what, I do believe it had a</p> <p>13 name change. I don't know if that is the name</p> <p>14 change, but that would make sense.</p> <p>15 Q. Okay. Can we just refer to that</p> <p>16 entity as HCRE?</p> <p>17 A. That is fine.</p> <p>18 Q. Okay. Do you have any direct or</p> <p>19 indirect ownership interest in HCRE?</p> <p>20 A. Yes.</p> <p>21 Q. And is it a majority interest to the</p> <p>22 best of your knowledge?</p> <p>23 A. Yes.</p> <p>24 Q. Do you control HCRE?</p> <p>25 A. Yes.</p>
<p>Page 342</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Have you controlled HCRE throughout</p> <p>3 its corporate existence?</p> <p>4 A. Yes.</p> <p>5 Q. Can you tell me what the nature of</p> <p>6 HCRE's business is?</p> <p>7 A. It makes real estate investments.</p> <p>8 Q. Do you have a title with that</p> <p>9 entity?</p> <p>10 A. I don't know, but I'm willing to be</p> <p>11 refreshed. And I assume its incumbency</p> <p>12 certificate looks similar to the ones that you</p> <p>13 have put up.</p> <p>14 Q. Can you identify for me today</p> <p>15 anybody who has ever served as an officer of</p> <p>16 HCRE at any time?</p> <p>17 A. I would rather be refreshed. I</p> <p>18 would imagine myself and Matt McGraner are two</p> <p>19 of those people, but I don't know for sure.</p> <p>20 Q. Okay. Without the incumbency</p> <p>21 certificates or other documentation, you are</p> <p>22 not able to give me any names other than Mr. –</p> <p>23 other than you and Mr. McGraner; is that fair?</p> <p>24 A. That's correct.</p> <p>25 Q. Okay. Do you know whether anybody</p>	<p>Page 343</p> <p>1 DONDERO - 10/29/21</p> <p>2 has ever been given the responsibility –</p> <p>3 withdrawn.</p> <p>4 Do you know whether anybody has ever</p> <p>5 had the responsibility for familiarizing</p> <p>6 themselves with the debts and obligations of</p> <p>7 HCRE?</p> <p>8 A. It would be the same answer as given</p> <p>9 on the other entities. It would be the</p> <p>10 treasurer, which is probably Frank. And if not</p> <p>11 the treasurer it would be Frank in his role and</p> <p>12 his team of putting together the complete and</p> <p>13 accurate financials of HCRE.</p> <p>14 Q. Other than putting together the</p> <p>15 complete and accurate financials of HCRE, did</p> <p>16 Frank and his team have any other</p> <p>17 responsibility with respect to understanding</p> <p>18 the debts and obligations of HCRE?</p> <p>19 MS. DEITSCH-PEREZ: Objection, form.</p> <p>20 A. Again, just the general overlay</p> <p>21 being that they were de minimis and – de</p> <p>22 minimus, and the service obligations were de</p> <p>23 minimus relative to the value or operating</p> <p>24 income of the enterprise.</p> <p>25 In other words, had they been more</p>

<p style="text-align: right;">Page 344</p> <p>1 DONDERO - 10/29/21</p> <p>2 material or material, they would have had more</p> <p>3 focus. But they didn't deserve more focus.</p> <p>4 Q. And so is it fair to say that you</p> <p>5 didn't do anything to familiarize yourself with</p> <p>6 HCRE's debts and obligations?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. Not on a regular detailed basis, you</p> <p>10 know, just a general awareness.</p> <p>11 Q. Did you ever take any steps to</p> <p>12 review the affiliate loans and obligations that</p> <p>13 were due between and among Highland and its</p> <p>14 affiliated companies?</p> <p>15 A. Again, just generally.</p> <p>16 Q. What did you do?</p> <p>17 A. Like I said, I had a general</p> <p>18 awareness of them.</p> <p>19 Q. And did you receive from time to</p> <p>20 time lists or information that specifically</p> <p>21 described the amounts that were due and owing</p> <p>22 from the affiliates to Highland?</p> <p>23 A. Yeah, from time to time the amounts,</p> <p>24 yes.</p> <p>25 Q. Let's just quickly go to the</p>	<p style="text-align: right;">Page 345</p> <p>1 DONDERO - 10/29/21</p> <p>2 30(b)(6) notices if we can.</p> <p>3 MR. MORRIS: Can we put up a</p> <p>4 document that has been marked as</p> <p>5 Exhibit 47.</p> <p>6 (Exhibit 47 marked.)</p> <p>7 Q. Do you understand, Mr. Dondero, that</p> <p>8 you are here today in your individual capacity</p> <p>9 and in your capacity as what is called a</p> <p>10 30(b)(6) witness for certain entities?</p> <p>11 A. Yes, a little bit to my chagrin.</p> <p>12 And I don't think you will see me again as a</p> <p>13 30(b)(6) witness, but yes.</p> <p>14 Q. All right. Well, it wasn't my</p> <p>15 choice, so let's just go through it quickly.</p> <p>16 Have you seen this document before,</p> <p>17 sir?</p> <p>18 A. Yes.</p> <p>19 Q. And do you understand that you are</p> <p>20 here today in your capacity as NexPoint's</p> <p>21 corporate representative?</p> <p>22 A. Yes.</p> <p>23 Q. And do you understand that your</p> <p>24 answers today in your capacity as NexPoint's</p> <p>25 corporate representative will be binding on</p>
<p style="text-align: right;">Page 346</p> <p>1 DONDERO - 10/29/21</p> <p>2 NexPoint?</p> <p>3 MS. DEITSCH-PEREZ: As qualified by</p> <p>4 the objections that we made.</p> <p>5 MR. MORRIS: Sure.</p> <p>6 A. I will do the best I can.</p> <p>7 Q. Thank you so much.</p> <p>8 MR. MORRIS: Can we go to the next</p> <p>9 page, please. The last page. The topics.</p> <p>10 Q. Okay. Have you seen these topics</p> <p>11 before, sir?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do you see that we asked for</p> <p>14 somebody to testify as to NexPoint's answer?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Are you aware that</p> <p>17 NexPoint – are you aware that NexPoint filed</p> <p>18 an answer to Highland's amended complaint?</p> <p>19 A. Yes.</p> <p>20 Q. And did you review NexPoint's answer</p> <p>21 at any time before today's deposition?</p> <p>22 A. It was in the binder, I believe,</p> <p>23 that you guys sent over.</p> <p>24 Q. I think that's right. Are you</p> <p>25 prepared to answer questions today about</p>	<p style="text-align: right;">Page 347</p> <p>1 DONDERO - 10/29/21</p> <p>2 NexPoint's answer?</p> <p>3 MS. DEITSCH-PEREZ: Again, subject</p> <p>4 to our objection, but...</p> <p>5 A. Yeah, to the best I can.</p> <p>6 Q. Okay. The next topic concerns</p> <p>7 affirmative defenses.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Do you have an understanding of what</p> <p>11 an affirmative defense is?</p> <p>12 A. Yes.</p> <p>13 Q. What is your understanding of an</p> <p>14 affirmative defense?</p> <p>15 A. I think it is those – phrase that</p> <p>16 you see in most of our answers, the</p> <p>17 justification, estoppel, waiver, and then –</p> <p>18 and then there is some specific answers beyond</p> <p>19 that, I guess.</p> <p>20 Q. Okay. Are you prepared –</p> <p>21 MS. DEITSCH-PEREZ: John, I take it</p> <p>22 you will show him. He doesn't have to have</p> <p>23 them memorized.</p> <p>24 MR. MORRIS: No, of course not.</p> <p>25 MS. DEITSCH-PEREZ: So if you are</p>

<p style="text-align: right;">Page 348</p> <p>1 DONDERO - 10/29/21</p> <p>2 going to ask him, you will put it in front</p> <p>3 of him?</p> <p>4 MR. MORRIS: Of course.</p> <p>5 MS. DEITSCH-PEREZ: Thank you.</p> <p>6 Q. Are you prepared to testify today to</p> <p>7 the circumstances, communications, documents,</p> <p>8 and facts concerning NexPoint's affirmative</p> <p>9 defenses?</p> <p>10 A. Yeah, to the best that I can.</p> <p>11 Q. Okay. Do you see Topic 3 concerns</p> <p>12 the demand notes?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Are you prepared to testify</p> <p>15 about the demand notes, including with respect</p> <p>16 to the specific issues identified in that</p> <p>17 topic?</p> <p>18 MS. DEITSCH-PEREZ: Again, subject</p> <p>19 to the objections, particularly I think</p> <p>20 with respect to use of the proceeds.</p> <p>21 Q. We will get to that.</p> <p>22 Are you prepared to testify?</p> <p>23 A. I hope so.</p> <p>24 Q. And – and I know that there is an</p> <p>25 objection there, but just a simple yes or no,</p>	<p style="text-align: right;">Page 349</p> <p>1 DONDERO - 10/29/21</p> <p>2 are you – do you have knowledge of the – of</p> <p>3 NexPoint's use of the proceeds of the note?</p> <p>4 A. Not specifically.</p> <p>5 Q. All right. Maybe I will refresh</p> <p>6 your recollection later.</p> <p>7 And then the last topic is discovery</p> <p>8 requests.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Are you prepared to testify today on</p> <p>12 NexPoint's behalf concerning Highland's</p> <p>13 discovery requests?</p> <p>14 A. To the best of my knowledge.</p> <p>15 Q. Okay. Did you do anything to</p> <p>16 prepare for today's deposition?</p> <p>17 A. I met with Deborah.</p> <p>18 Q. When did you do that?</p> <p>19 A. A couple of days ago for a couple of</p> <p>20 hours, and a few days before that for a couple</p> <p>21 of hours.</p> <p>22 Q. How many times –</p> <p>23 MS. DEITSCH-PEREZ: Are you also</p> <p>24 asking about calls?</p> <p>25 MR. MORRIS: I appreciate that.</p>
<p style="text-align: right;">Page 350</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yeah. There were a couple of phone</p> <p>3 calls too.</p> <p>4 Q. How many times did you communicate</p> <p>5 with Deborah in preparation for today's</p> <p>6 deposition?</p> <p>7 A. A half dozen, maybe, you know.</p> <p>8 Q. How many times –</p> <p>9 A. You know, in-person and phone calls,</p> <p>10 but...</p> <p>11 Q. How many times did you meet with her</p> <p>12 in-person?</p> <p>13 A. Two, maybe three.</p> <p>14 Q. And can you just tell me an estimate</p> <p>15 of the total time spent preparing for this</p> <p>16 deposition, inclusive of both the meetings and</p> <p>17 the phone calls?</p> <p>18 A. I don't know. Does it matter? I</p> <p>19 mean, I don't know. I don't know, four hours,</p> <p>20 four hours.</p> <p>21 Q. Okay. Did anybody participate in</p> <p>22 these meetings or phone calls other than your</p> <p>23 lawyers?</p> <p>24 A. No.</p> <p>25 Q. Did any lawyers participate in any</p>	<p style="text-align: right;">Page 351</p> <p>1 DONDERO - 10/29/21</p> <p>2 of these meetings or phone calls who didn't</p> <p>3 represent you in your individual capacity?</p> <p>4 A. No. It was just – it was just</p> <p>5 Deborah and I.</p> <p>6 Q. Okay. Have you had a chance to</p> <p>7 review the transcript of Mr. Waterhouse's</p> <p>8 deposition?</p> <p>9 A. No. I haven't seen it yet.</p> <p>10 Q. You haven't seen any portion of that</p> <p>11 deposition?</p> <p>12 A. No.</p> <p>13 Q. Are you aware of anything that</p> <p>14 Mr. Waterhouse testified to in his deposition?</p> <p>15 A. No.</p> <p>16 Q. You have no knowledge of anything</p> <p>17 that Mr. Waterhouse said last week in his</p> <p>18 deposition; do I have that right?</p> <p>19 A. That's correct.</p> <p>20 Q. Okay. Do you have any knowledge as</p> <p>21 to anything your sister said in her deposition?</p> <p>22 A. No, other than she is glad it is</p> <p>23 over.</p> <p>24 Q. I hope – I hope – I hope she</p> <p>25 thinks at least I was respectful.</p>

<p style="text-align: right;">Page 352</p> <p>1 DONDERO - 10/29/21</p> <p>2 Did – did you ever see her</p> <p>3 transcript – the transcript from her</p> <p>4 deposition?</p> <p>5 A. No.</p> <p>6 Q. How about Mr. Seery, did you see the</p> <p>7 transcript from Mr. Seery's deposition?</p> <p>8 A. I didn't even know that Seery was</p> <p>9 deposed, so the answer is no.</p> <p>10 Q. Okay. Are you aware that Dave Klos</p> <p>11 was deposed?</p> <p>12 A. You know what, I think I had</p> <p>13 awareness of that, but I haven't seen that</p> <p>14 deposition.</p> <p>15 Q. Do you know anything about anything</p> <p>16 that he testified to the other day?</p> <p>17 A. Nope.</p> <p>18 Q. How about Kristin – Kristin</p> <p>19 Hendrix, are you aware that she was deposed?</p> <p>20 A. I think I heard that she was also.</p> <p>21 Q. Do you know anything about anything</p> <p>22 that she testified to?</p> <p>23 A. No.</p> <p>24 Q. Did you look at any documents to</p> <p>25 refresh your recollection in advance of this</p>	<p style="text-align: right;">Page 353</p> <p>1 DONDERO - 10/29/21</p> <p>2 deposition other than the stack that I provided</p> <p>3 and the deposition notices?</p> <p>4 A. I mean just – no, just a listing of</p> <p>5 the notes, but that is it.</p> <p>6 Q. Did you see any emails at all in</p> <p>7 connection with your preparation for today's</p> <p>8 deposition?</p> <p>9 A. No, not a single email.</p> <p>10 MR. MORRIS: Okay. Let's put up</p> <p>11 Exhibit 48, please.</p> <p>12 (Exhibit 48 marked.)</p> <p>13 Q. And I think you will see that this</p> <p>14 is the 30(b)(6) notice for HCMS. If we can go</p> <p>15 to the next page. And it is really the same –</p> <p>16 I will represent to you that the topics for</p> <p>17 HCMS are the same as the topics for NexPoint.</p> <p>18 Have you seen HCMS's 30(b)(6) notice</p> <p>19 that is up on the screen right now?</p> <p>20 A. Yes.</p> <p>21 Q. And if we took the time – if I took</p> <p>22 the time to ask you the same questions about</p> <p>23 your ability to answer on behalf of HCMS –</p> <p>24 HCMS with respect to the topics identified</p> <p>25 there and subject to your counsel's objections,</p>
<p style="text-align: right;">Page 354</p> <p>1 DONDERO - 10/29/21</p> <p>2 would you be able to do so?</p> <p>3 A. Yes.</p> <p>4 MR. MORRIS: Let's put up Exhibit</p> <p>5 49, please.</p> <p>6 (Exhibit 49 marked.)</p> <p>7 Q. And this is the 30(b)(6) notice for</p> <p>8 HCRE. You're here today to testify on behalf</p> <p>9 of HCRE as its corporate representative. Do</p> <p>10 you understand that?</p> <p>11 A. Yes.</p> <p>12 Q. And did you review the list of</p> <p>13 topics that we included in our 30(b)(6) notice</p> <p>14 for HCRE?</p> <p>15 A. Yes.</p> <p>16 Q. And subject to your counsel's</p> <p>17 objections, are you prepared to testify to the</p> <p>18 topics that are listed on the page that is up</p> <p>19 on the screen?</p> <p>20 A. Yes.</p> <p>21 MR. MORRIS: Okay. Can we please</p> <p>22 put up Exhibit 31.</p> <p>23 (Exhibit 31 marked.)</p> <p>24 Q. Mr. Dondero, we're putting up on the</p> <p>25 screen now your answer to the – to Highland's</p>	<p style="text-align: right;">Page 355</p> <p>1 DONDERO - 10/29/21</p> <p>2 amended complaint.</p> <p>3 MS. DEITSCH-PEREZ: Is that in the</p> <p>4 notebook?</p> <p>5 MR. MORRIS: No, no. This is one</p> <p>6 that we had – we had –</p> <p>7 MS. DEITSCH-PEREZ: All right. Hang</p> <p>8 on.</p> <p>9 MR. MORRIS: That's okay. That is</p> <p>10 why we're putting it up on the screen, and</p> <p>11 we will put it in the chat room. It is</p> <p>12 already in there, actually.</p> <p>13 MS. DEITSCH-PEREZ: Yeah, I think we</p> <p>14 have it here. Hold on. I think Nancy</p> <p>15 walked off with the duplicate of this, so</p> <p>16 if you need it, I will hand it to you.</p> <p>17 Q. Mr. Dondero, while we wait to see if</p> <p>18 your counsel has a hard copy, do you recall</p> <p>19 reviewing your answer to the plaintiff's</p> <p>20 amended complaint before it was filed?</p> <p>21 A. I don't know if I was involved at</p> <p>22 that juncture.</p> <p>23 Q. All right. So just to refresh your</p> <p>24 recollection, this is a document that was filed</p> <p>25 with the Court at the beginning of September.</p>

<p>Page 356</p> <p>1 DONDERO - 10/29/21</p> <p>2 If you recall, Highland filed an original</p> <p>3 complaint, and after you amended your answer</p> <p>4 late in August pursuant to an agreement,</p> <p>5 Highland filed amended complaints against</p> <p>6 certain of the obligors in the notes</p> <p>7 litigation.</p> <p>8 Does that refresh your recollection</p> <p>9 that this document was prepared in early</p> <p>10 September?</p> <p>11 A. Okay.</p> <p>12 Q. Okay.</p> <p>13 A. I don't have specific memory.</p> <p>14 Q. Okay. So as always, Mr. Dondero, we</p> <p>15 have done this many times before, if there is</p> <p>16 anything in the document that you think that</p> <p>17 you need to see because it is a little bit of a</p> <p>18 lengthy document, will you let me know that?</p> <p>19 A. Sure.</p> <p>20 MS. DEITSCH-PEREZ: Yeah. And we</p> <p>21 have a copy if you need to stop and take a</p> <p>22 look. We did get a hard copy. We have a</p> <p>23 hard copy here.</p> <p>24 Q. Okay.</p> <p>25 A. All right.</p>	<p>Page 357</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. So – so let me ask the question</p> <p>3 again then: Do you recall, with that</p> <p>4 background, having reviewed and approved the</p> <p>5 filing of this document at the beginning of</p> <p>6 September 2021?</p> <p>7 A. Generally.</p> <p>8 Q. Okay. As you sit here today, are</p> <p>9 you aware of anything in this document that is</p> <p>10 inaccurate?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Okay. Are you aware of anything in</p> <p>13 the document that you believe should be</p> <p>14 modified or amended to make it more complete or</p> <p>15 more accurate?</p> <p>16 A. Not as of this moment.</p> <p>17 Q. Okay. Can we please go to Paragraph</p> <p>18 83. Okay. Right there.</p> <p>19 So do you see that on – on page 13</p> <p>20 of the exhibit, we have in Paragraphs 82</p> <p>21 through 91 what are called your affirmative</p> <p>22 defenses?</p> <p>23 A. Yes.</p> <p>24 Q. All right. I'm going to skip the</p> <p>25 one in 82 for the moment, but focusing on 83.</p>
<p>Page 358</p> <p>1 DONDERO - 10/29/21</p> <p>2 Can you just read that to yourself and tell me</p> <p>3 when you have done that?</p> <p>4 A. Yes.</p> <p>5 Q. Are you aware of any facts that</p> <p>6 concern this particular affirmative defense?</p> <p>7 A. Which notes are these again?</p> <p>8 Q. These would be your personal notes.</p> <p>9 A. The – personal notes. I'm trying</p> <p>10 to remember. No, I – well, if you read the</p> <p>11 question one more time.</p> <p>12 Q. Sure. Just so – so to make sure</p> <p>13 that you understand, because I'm not here to</p> <p>14 trick you, this is your answer to Highland's</p> <p>15 complaint against you where Highland is trying</p> <p>16 to recover on the notes that you signed.</p> <p>17 Do you understand that?</p> <p>18 A. Right.</p> <p>19 Q. Okay. So in Paragraph 83 you have</p> <p>20 asserted an affirmative defense that the</p> <p>21 plaintiff's claims are barred in whole or in</p> <p>22 part due to waiver.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have any facts that you can</p>	<p>Page 359</p> <p>1 DONDERO - 10/29/21</p> <p>2 share with me that concern that particular</p> <p>3 affirmative defense?</p> <p>4 MS. DEITSCH-PEREZ: And, again, just</p> <p>5 in this particular answer.</p> <p>6 MR. MORRIS: That is all I'm asking</p> <p>7 about.</p> <p>8 Q. We're going to go through the answer</p> <p>9 for each one of them. So just one at a time.</p> <p>10 We're only talking about your – your notes.</p> <p>11 A. No, not the moment.</p> <p>12 Q. Let's go to Paragraph 84.</p> <p>13 Do you see Paragraph 84 states,</p> <p>14 among other things, that plaintiff's claims are</p> <p>15 barred, in whole or in part, due to estoppel?</p> <p>16 A. Yes.</p> <p>17 Q. Can you share with me any facts that</p> <p>18 you are aware of that concern that particular</p> <p>19 affirmative defense?</p> <p>20 A. No.</p> <p>21 Q. Okay. I'm going to skip over 85</p> <p>22 because I've gotten that answer elsewhere. If</p> <p>23 we can go to 86, do you see that Paragraph 86</p> <p>24 asserts as an affirmative defense, among other</p> <p>25 things, that, quote: Plaintiff's claims may be</p>

<p>Page 360</p> <p>1 DONDERO - 10/29/21</p> <p>2 barred, in whole or in part, due to failure of</p> <p>3 consideration, closed quote?</p> <p>4 A. Right, I see that.</p> <p>5 Q. Do you – do you – do you</p> <p>6 acknowledge that Highland transferred to you an</p> <p>7 amount of money equal to the principal amount</p> <p>8 on each of the notes that are at issue?</p> <p>9 A. I believe – yes.</p> <p>10 Q. Okay. I appreciate that.</p> <p>11 Do you have any facts that would</p> <p>12 support the affirmative defense that is set</p> <p>13 forth in Paragraph 86?</p> <p>14 A. No.</p> <p>15 Q. Okay. And then, finally,</p> <p>16 Paragraph 88 asserts, among other things, that</p> <p>17 the fraudulent transfer claim should be barred,</p> <p>18 in whole or in part, because the alleged</p> <p>19 fraudulent transfer – and I'm summarizing</p> <p>20 here – was taken in good faith and for</p> <p>21 reasonably equivalent value.</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Do you have any facts that</p> <p>25 concern that particular affirmative defense?</p>	<p>Page 361</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Let me read that one more time.</p> <p>3 Q. Take your time.</p> <p>4 A. I think that one is – I'm trying –</p> <p>5 I'm trying to remember if that one – if the</p> <p>6 partner defense is on alternative comp that</p> <p>7 could have been taken or forgiveness that was</p> <p>8 in lieu of other comp – I'm trying to remember</p> <p>9 if that falls under this category. I think it</p> <p>10 does.</p> <p>11 Q. Okay. Is there anything else that</p> <p>12 you can – any other facts that you can think</p> <p>13 of that concern the affirmative defense in</p> <p>14 Paragraph 88?</p> <p>15 A. I mean, the – yes. Okay. To the</p> <p>16 extent that the – in lieu of additional comp</p> <p>17 falls under there, so does the incentives to –</p> <p>18 the incentive to me to help monetize illiquid</p> <p>19 investments better faster.</p> <p>20 Q. And does that relate to the three</p> <p>21 portfolio companies that are the subject of the</p> <p>22 oral agreement between you and your sister or</p> <p>23 to something else?</p> <p>24 A. It is –</p> <p>25 MS. DEITSCH-PEREZ: Objection, form.</p>
<p>Page 362</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. – regarding that, yeah.</p> <p>3 Q. It is the same thing. Do I have</p> <p>4 that right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Thank you very much.</p> <p>7 Is there anything else you can share</p> <p>8 with me about the facts that concern the</p> <p>9 affirmative defense in Paragraph 88?</p> <p>10 A. I think that is – that is – that</p> <p>11 is it.</p> <p>12 Q. Okay. Can we change now to</p> <p>13 Exhibit 16, which you should have in your pile,</p> <p>14 which is the answer that was filed by the HCMS</p> <p>15 to Highland's amended complaint.</p> <p>16 (Exhibit 16 marked.)</p> <p>17 A. Which number is this?</p> <p>18 Q. It is number 16.</p> <p>19 A. 16 in the binder?</p> <p>20 Q. It should be, yeah.</p> <p>21 A. Yes. Okay. I got it.</p> <p>22 Q. Okay. And is the first page titled</p> <p>23 Defendant, Highland Capital Management</p> <p>24 Services, Inc.'s Answer to Amended Complaint?</p> <p>25 A. Yes.</p>	<p>Page 363</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. So these questions I'm asking</p> <p>3 in your capacity as HCMS' 30(b)(6) witness.</p> <p>4 Okay?</p> <p>5 A. Okay.</p> <p>6 Q. And you recall that one of the</p> <p>7 topics under the deposition notice was HCMS'</p> <p>8 answer; right?</p> <p>9 Are you prepared to answer questions</p> <p>10 about this document?</p> <p>11 A. Yep, to the best I can.</p> <p>12 Q. Okay. Have you seen it before?</p> <p>13 A. Yes.</p> <p>14 Q. And do you know whether HCMS</p> <p>15 authorized this Stinson firm to file this</p> <p>16 document on its behalf at the beginning of</p> <p>17 2021?</p> <p>18 A. Yes.</p> <p>19 Q. Did you personally have any role in</p> <p>20 reviewing and preparing this document?</p> <p>21 A. I mean, just generally that the</p> <p>22 transition of former Judge Lynn passing and</p> <p>23 Bonds Ellis not being able to handle</p> <p>24 complexity – maybe I shouldn't say it like</p> <p>25 that – or handle this aspect of the case</p>

<p>Page 364</p> <p>1 DONDERO - 10/29/21</p> <p>2 and/or – I think it was – yeah, just</p> <p>3 whatever. He moved to Stinson from – I think</p> <p>4 maybe it started at Bonds Ellis and then maybe</p> <p>5 it went to Wick Phillips and then it went to</p> <p>6 Stinson, but, you know, there was a migration</p> <p>7 of these notes in general.</p> <p>8 Q. Was there a particular person who</p> <p>9 was charged with the responsibility of</p> <p>10 approving and authorizing the filing of this</p> <p>11 document on behalf of HCMS?</p> <p>12 A. Like I said, I think generally that</p> <p>13 was myself.</p> <p>14 Q. Okay. Are you aware of anything in</p> <p>15 this document today that is inaccurate in any</p> <p>16 way?</p> <p>17 A. Not specifically.</p> <p>18 Q. Are you aware of anything generally</p> <p>19 in this document that is inaccurate in any way?</p> <p>20 A. Not at the moment.</p> <p>21 Q. Are you aware of anything in this</p> <p>22 document that you believe should be modified or</p> <p>23 amended to make it more complete or more</p> <p>24 accurate?</p> <p>25 A. Not yet.</p>	<p>Page 365</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Let's go to Paragraph 40 – 94,</p> <p>3 please.</p> <p>4 MS. DEITSCH-PEREZ: We may be</p> <p>5 imperfect creatures as lawyers.</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. I was just going to say, do</p> <p>10 you see from Paragraphs 94 through 102 HCMS has</p> <p>11 set forth its affirmative defenses?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Let's – let's start with the</p> <p>14 first one.</p> <p>15 Do you see in Paragraph 94 HCMS</p> <p>16 asserts that, quote: Plaintiff's claims are</p> <p>17 barred, in whole or in part, by the doctrine of</p> <p>18 justification and/or repudiation?</p> <p>19 A. Yes.</p> <p>20 Q. Are you aware of any facts that</p> <p>21 concern that particular defense?</p> <p>22 A. I believe this – they were material</p> <p>23 prepayments of the loan. I believe that is –</p> <p>24 those are the – they were material and</p> <p>25 numerous prepayments of the loan, which I think</p>
<p>Page 366</p> <p>1 DONDERO - 10/29/21</p> <p>2 was – that is incorporated into that defense.</p> <p>3 Q. Okay. We will talk about the – the</p> <p>4 details of that in a moment, but are there any</p> <p>5 other kind of broad statements that you can</p> <p>6 give me that identify facts related to this</p> <p>7 particular affirmative defense?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. That is all I have at the moment.</p> <p>11 Q. Okay. Do you know whether any</p> <p>12 document that HCMS ever filed with the</p> <p>13 bankruptcy court ever asserted, as in a</p> <p>14 defense, that they didn't have to pay because</p> <p>15 they had prepaid any obligations that were due</p> <p>16 and owing?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. I don't have awareness.</p> <p>20 Q. And this document doesn't – doesn't</p> <p>21 use the word "prepayment" anywhere, does it?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I don't know.</p> <p>25 Q. Do you know of anything that HCMS</p>	<p>Page 367</p> <p>1 DONDERO - 10/29/21</p> <p>2 ever did before this week to put Highland on</p> <p>3 notice that it contended that it didn't have to</p> <p>4 pay its obligations under the notes because of</p> <p>5 a prepayment defense?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. We have no records. I'm not sure we</p> <p>9 would have ever been in a position to – to do</p> <p>10 that. The – you know, we were relying on</p> <p>11 shared services from Highland, and Highland had</p> <p>12 all the records regarding the amounts and</p> <p>13 prepayments, et cetera.</p> <p>14 Q. When did you learn that HCMS had</p> <p>15 made a prepayment to Highland?</p> <p>16 A. I don't know, but I – I imagine –</p> <p>17 I imagine it was – if you are asking why it</p> <p>18 wasn't mentioned earlier but then mentioned</p> <p>19 later, it is because somewhere in that time</p> <p>20 period we became aware.</p> <p>21 Q. So you didn't – you didn't have</p> <p>22 knowledge of the prepayment until the debtor</p> <p>23 produced documents. Do I have that right?</p> <p>24 Withdrawn.</p> <p>25 How did you learn that HCMS made a</p>

<p>Page 368</p> <p>1 DONDERO - 10/29/21</p> <p>2 prepayment?</p> <p>3 A. I don't know. I just know that we</p> <p>4 became aware of that being a material fact</p> <p>5 somewhere along the line.</p> <p>6 Q. Do you remember when you learned</p> <p>7 that material fact?</p> <p>8 A. No.</p> <p>9 Q. Do you have any facts that you can</p> <p>10 share with me concerning the prepayment?</p> <p>11 A. Eventually there was a spreadsheet</p> <p>12 that summarized it, but I don't – I don't</p> <p>13 know – I don't know when that occurred.</p> <p>14 Q. Does – does this defense of</p> <p>15 prepayment apply to demand notes or a term</p> <p>16 note?</p> <p>17 A. I would – I would – I would say,</p> <p>18 you know, primarily a term note, but – yeah, I</p> <p>19 think primarily the term note because I think</p> <p>20 that was the one that was declared to be in</p> <p>21 default of share, you know, whatever, so I</p> <p>22 think it was regarding the term note.</p> <p>23 Q. Do you recall – do you have any</p> <p>24 knowledge as to when the prepayment was made?</p> <p>25 A. I believe there were numerous and</p>	<p>Page 369</p> <p>1 DONDERO - 10/29/21</p> <p>2 material prepayments, but I don't know exactly</p> <p>3 when they were made.</p> <p>4 Q. Do you know what year they were</p> <p>5 made?</p> <p>6 A. No, but – no, but – no, I don't.</p> <p>7 MS. DEITSCH-PEREZ: If you want,</p> <p>8 John, if you would like for him to give you</p> <p>9 dates, he could probably dig up the</p> <p>10 spreadsheet and give you dates, but you</p> <p>11 have it also.</p> <p>12 MR. MORRIS: Thank you. Okay. I</p> <p>13 think we're doing just fine here.</p> <p>14 Q. Do you know if there were any</p> <p>15 prepayments made by HCMS in 2018?</p> <p>16 A. I don't know the specifics off the</p> <p>17 top of my head.</p> <p>18 Q. Do you know if HCMS made any</p> <p>19 prepayments in 2019?</p> <p>20 A. I don't know the specifics off the</p> <p>21 top of my head.</p> <p>22 Q. Are you aware that under the term</p> <p>23 note, HCMS was required to pay annual</p> <p>24 installment payments at the end of each year?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p>Page 370</p> <p>1 DONDERO - 10/29/21</p> <p>2 form.</p> <p>3 A. I wouldn't say it like that.</p> <p>4 Q. We will look – we will look at the</p> <p>5 documents in a few minutes.</p> <p>6 Are you aware of any facts that</p> <p>7 support the justification or repudiation</p> <p>8 defense in Paragraph 94 other than what you</p> <p>9 have testified to so far?</p> <p>10 A. I think it is largely the prepayment</p> <p>11 aspect of it that is captured there.</p> <p>12 Q. Okay. And – and – all right. I</p> <p>13 will leave it at that.</p> <p>14 Let's go to Paragraph 95. Do you</p> <p>15 see the affirmative defense in 95 is that,</p> <p>16 quote, plaintiff's claims are barred in whole</p> <p>17 or in part by the doctrine of estoppel.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have any facts as the</p> <p>21 30(b)(6) witness of HCMS that concern that</p> <p>22 particular affirmative defense?</p> <p>23 A. You know, I think for both 95 and</p> <p>24 96, the way I understand it is that was</p> <p>25 reliance on Highland's and Highland's screw-up,</p>	<p>Page 371</p> <p>1 DONDERO - 10/29/21</p> <p>2 to the extent that there was a screw-up, on the</p> <p>3 term loans.</p> <p>4 Q. What screw-up are you referring to?</p> <p>5 A. Well, we didn't have accountants or</p> <p>6 employees at Services, you know, and Services</p> <p>7 was relying on Highland and shared services to</p> <p>8 stay in compliance or to – on the various</p> <p>9 loans.</p> <p>10 Q. Did you ever personally instruct</p> <p>11 anybody in December of 2020 to make a payment</p> <p>12 on behalf of HCMS under the term note?</p> <p>13 A. To make – I'm sorry, is this –</p> <p>14 what was the timeframe again?</p> <p>15 Q. December 2020 – let's just say</p> <p>16 anytime in 2020. Did you, in your capacity as</p> <p>17 the person in control of HCMS, ever direct or</p> <p>18 authorize any person in the world to make a</p> <p>19 payment from HCMS to Highland in satisfaction</p> <p>20 of the obligation that was due under the term</p> <p>21 note at the end of the year?</p> <p>22 A. Not that – not that I recall.</p> <p>23 Q. Okay. Do you know whether anybody</p> <p>24 acting on behalf of HCMS ever instructed or</p> <p>25 authorized Highland to make a payment on</p>

<p style="text-align: right;">Page 372</p> <p>1 DONDERO - 10/29/21</p> <p>2 account of HCMS's term note to Highland?</p> <p>3 A. Well, again, and maybe I didn't say</p> <p>4 it clearly enough. I think there was a</p> <p>5 reliance in the due course aspect, especially</p> <p>6 on small amounts, and it would have been done</p> <p>7 by Highland personnel on behalf of Services.</p> <p>8 MR. MORRIS: Okay. Move to strike.</p> <p>9 Q. And I'm going to ask you,</p> <p>10 Mr. Dondero, to be patient with me and to</p> <p>11 listen carefully to my question.</p> <p>12 Are you aware of anybody acting on</p> <p>13 behalf of HCMS, whoever instructed Highland to</p> <p>14 make a payment in satisfaction of any payment</p> <p>15 that was due at the year-end of 2020 under the</p> <p>16 term note?</p> <p>17 A. Not specifically, but I'm saying I</p> <p>18 don't think it needed to be made specifically.</p> <p>19 Q. Okay. So you are not aware of any</p> <p>20 instruction that was ever given to Highland by</p> <p>21 HCMS to make the payment; is that fair? You</p> <p>22 relied on the course of dealing?</p> <p>23 A. Right. I relied on ordinary course.</p> <p>24 I don't believe there was a specific – I'm not</p> <p>25 aware of a specific request.</p>	<p style="text-align: right;">Page 373</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. And you were aware that the</p> <p>3 payment was due at the end of the year; isn't</p> <p>4 that right?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. Not – not specifically. There</p> <p>8 is – to be bona fide notes, there is – I know</p> <p>9 there is – there is tax structuring and things</p> <p>10 that the auditors want to see in terms of – of</p> <p>11 regular payment that everything just doesn't</p> <p>12 accrue indefinitely, but what those roles are</p> <p>13 and when and if it needs to be paid and whether</p> <p>14 it was by the end of the year or not.</p> <p>15 I'm generally not specifically</p> <p>16 knowledgeable of or involved in, and nor do I</p> <p>17 have an awareness that was it or could it have</p> <p>18 been satisfied by other payments throughout the</p> <p>19 year. I'm not – I'm not the person for that</p> <p>20 knowledge.</p> <p>21 Q. Now, do you recall in December of</p> <p>22 2020 there was some tension between you and</p> <p>23 Mr. Seery?</p> <p>24 A. Tension between me and Mr. Seery. I</p> <p>25 would say there was tension between Mr. Seery</p>
<p style="text-align: right;">Page 374</p> <p>1 DONDERO - 10/29/21</p> <p>2 and everybody. He was trying to steal the</p> <p>3 estate, you know, so yes.</p> <p>4 MR. MORRIS: I move to strike.</p> <p>5 Q. You were asked to resign from</p> <p>6 Highland in late September of 2020; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And you did resign as of October</p> <p>9 9th, 2020; correct?</p> <p>10 A. Yes.</p> <p>11 Q. And do you recall that in early</p> <p>12 December, Highland sought a temporary</p> <p>13 restraining order against you?</p> <p>14 A. Yes.</p> <p>15 Q. And do you recall that Highland</p> <p>16 obtained a temporary restraining order against</p> <p>17 you in early December?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you recall that the</p> <p>20 advisors that you controlled filed a motion</p> <p>21 against the debtor in mid December 2020?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And do you recall that that</p> <p>24 motion was curved by the Court in the middle of</p> <p>25 December?</p>	<p style="text-align: right;">Page 375</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes, roughly.</p> <p>3 Q. And do you recall that at the end of</p> <p>4 November, Highland had given notice of</p> <p>5 termination of the shared services agreements</p> <p>6 with the advisors?</p> <p>7 A. I believe they did that multiple</p> <p>8 times or extended it multiple times. I can't</p> <p>9 remember if that was – if it was done then or</p> <p>10 not.</p> <p>11 Q. Okay. And it is your testimony that</p> <p>12 notwithstanding those facts and circumstances,</p> <p>13 you relied on Highland to make the payment that</p> <p>14 HCMS owed at the end of the year?</p> <p>15 A. Yes, absolutely. We were still</p> <p>16 deluded in terms of thinking that Seery was</p> <p>17 working to resolve the estate, not to steal the</p> <p>18 estate.</p> <p>19 MR. MORRIS: I move to strike.</p> <p>20 Q. Do you have any other facts and</p> <p>21 circumstances that relate to the affirmative</p> <p>22 defenses in Paragraphs 95 and 96?</p> <p>23 A. I mean, not at the moment, not that</p> <p>24 I want to volunteer. When you ask more</p> <p>25 questions about the specifics, I guess we will</p>

<p>Page 376</p> <p>1 DONDERO - 10/29/21</p> <p>2 get to some of it.</p> <p>3 Q. Well, I'm asking you questions now.</p> <p>4 You are the 30(b)(6) witness. This is one of</p> <p>5 the topics that you were supposed to be</p> <p>6 prepared to answer questions about, and I would</p> <p>7 just like to know everything that you have in</p> <p>8 your head as to facts that relate to these two</p> <p>9 affirmative defenses.</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 Q. Because if I don't ask the right</p> <p>13 question later, you know, we can't do that;</p> <p>14 right?</p> <p>15 So do you have any other facts that</p> <p>16 you are aware of that relate to these two</p> <p>17 particular affirmative defenses?</p> <p>18 MS. DEITSCH-PEREZ: John, the fact</p> <p>19 that it's a 30(b)(6) deposition doesn't</p> <p>20 absolve you of the necessity to ask</p> <p>21 questions.</p> <p>22 MR. MORRIS: I asked the question.</p> <p>23 Q. Can I please have an answer?</p> <p>24 A. Again, the notes in general are de</p> <p>25 minimis relative to asset values of Highland or</p>	<p>Page 377</p> <p>1 DONDERO - 10/29/21</p> <p>2 the counterparties. So the annual obligations</p> <p>3 are even more de minimis or a million bucks or</p> <p>4 less than a million bucks.</p> <p>5 There was never an intent, nor would</p> <p>6 there be a logical intent to – from my</p> <p>7 perspective or any of the entities that had</p> <p>8 notice to Highland to be in default. And it is</p> <p>9 not logical that they would do that for any</p> <p>10 purpose.</p> <p>11 And the facts around the curing</p> <p>12 quickly of the notes and getting the curing</p> <p>13 amounts from Highland and making the payments</p> <p>14 and Highland accepting them as they're defining</p> <p>15 what it took to cure it, I think, are all, you</p> <p>16 know, the key facts that make any, you know,</p> <p>17 acceleration argument, you know, ridiculous.</p> <p>18 Q. Okay. Anything else?</p> <p>19 A. That's it at this point.</p> <p>20 MR. MORRIS: Okay. Let's go to</p> <p>21 Exhibit 17, please.</p> <p>22 (Exhibit 17 marked.)</p> <p>23 Q. This is HCRE's answer. Do you see</p> <p>24 that, sir?</p> <p>25 A. Yes.</p>
<p>Page 378</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And I'm going to ask these questions</p> <p>3 in your capacity as the 30(b)(6) representative</p> <p>4 of HCRE. Do you understand that?</p> <p>5 A. Yes.</p> <p>6 Q. Have you seen this document before?</p> <p>7 A. Yes.</p> <p>8 Q. Are you aware of anything in this</p> <p>9 document that is inaccurate today?</p> <p>10 A. I mean, I think 96 we put in there</p> <p>11 similar to the other affirmative defenses in</p> <p>12 case there was a prepayment. But, again, we</p> <p>13 have been so blocked from getting information</p> <p>14 and detail we didn't know it at the time</p> <p>15 regarding, you know, prepayments.</p> <p>16 So I don't think the prepayment</p> <p>17 defense works for 96. So that would be my</p> <p>18 clarification of an inaccuracy.</p> <p>19 Q. Why do you believe that the</p> <p>20 prepayment defense doesn't work in Paragraph 96</p> <p>21 for HCRE?</p> <p>22 A. Because I don't think there were any</p> <p>23 prepayments.</p> <p>24 Q. All right. I appreciate that.</p> <p>25 A. We didn't – we didn't know it at</p>	<p>Page 379</p> <p>1 DONDERO - 10/29/21</p> <p>2 the time –</p> <p>3 Q. Okay.</p> <p>4 A. – we put this together.</p> <p>5 Q. Is there any other aspect of this</p> <p>6 document that you believe is inaccurate today?</p> <p>7 A. Not as far as I know.</p> <p>8 Q. Is there anything in this document</p> <p>9 that you believe should be modified or amended</p> <p>10 to make it more accurate or more complete?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. Not yet.</p> <p>14 Q. Okay. Looking at Paragraph 96, I</p> <p>15 believe you just testified that,</p> <p>16 notwithstanding the assertion of the defense</p> <p>17 therein, you are not aware of any facts</p> <p>18 concerning the prepayment defense that you</p> <p>19 described earlier for HCMS.</p> <p>20 Do I have that right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Do you have any facts at all</p> <p>23 that relate to the affirmative defense in</p> <p>24 Paragraph 96?</p> <p>25 A. I don't believe so at this moment.</p>

<p style="text-align: right;">Page 380</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. How about Paragraphs 97 and</p> <p>3 98? Do you have any facts that relate to those</p> <p>4 affirmative defenses?</p> <p>5 A. It would be the same answer as on</p> <p>6 the last one.</p> <p>7 Q. Okay. I appreciate that. And so –</p> <p>8 but we don't have to go over it again. I will</p> <p>9 just leave it at that.</p> <p>10 Let's go to Exhibit 15, please.</p> <p>11 (Exhibit 15 marked.)</p> <p>12 MR. MORRIS: This is the next –</p> <p>13 MS. DEITSCH-PEREZ: Hey, John.</p> <p>14 John, can we take a – like a very quick</p> <p>15 restroom break?</p> <p>16 MR. MORRIS: You know, if we could</p> <p>17 just get through this document, which</p> <p>18 shouldn't take long, then perhaps we can</p> <p>19 take a short half-hour lunch break.</p> <p>20 MS. DEITSCH-PEREZ: Well, we can</p> <p>21 take a short half-hour lunch break after we</p> <p>22 get through this, but I just need to run to</p> <p>23 the restroom.</p> <p>24 MR. MORRIS: Okay.</p> <p>25 MS. DEITSCH-PEREZ: So you can leave</p>	<p style="text-align: right;">Page 381</p> <p>1 DONDERO - 10/29/21</p> <p>2 the screen on if you want so that we can</p> <p>3 get back fast.</p> <p>4 MR. MORRIS: My pleasure, Deborah.</p> <p>5 No problem.</p> <p>6 MS. DEITSCH-PEREZ: Thank you.</p> <p>7 VIDEOGRAPHER: Off the record,</p> <p>8 12:40.</p> <p>9 (Recess taken 12:40 p.m. to 12:51 p.m.)</p> <p>10 Q. Before we go on to this document,</p> <p>11 sir, did HCRE have a shared services agreement</p> <p>12 with Highland?</p> <p>13 VIDEOGRAPHER: We're back on the</p> <p>14 record.</p> <p>15 MR. MORRIS: Oh, do I need to read</p> <p>16 the question again?</p> <p>17 COURT REPORTER: No, I've got it.</p> <p>18 A. I – I don't believe it is a formal</p> <p>19 written one. I think it is just a verbal one.</p> <p>20 Q. And who is the verbal agreement</p> <p>21 between?</p> <p>22 A. It was between Highland and HCRE.</p> <p>23 Now it is between NexPoint and HCRE.</p> <p>24 Q. And who entered into the agreement</p> <p>25 between Highland and HCRE?</p>
<p style="text-align: right;">Page 382</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. I would give the same answer I gave</p> <p>3 before where it was just – it was just</p> <p>4 understood that we supported all the related</p> <p>5 entities or entrepreneurial efforts and it was,</p> <p>6 you know, modest amounts of work.</p> <p>7 There wasn't specific financial</p> <p>8 remuneration, but – and NexPoint is a good</p> <p>9 example, too. There was a significant track</p> <p>10 record gulf that was able to be used to raise</p> <p>11 other money.</p> <p>12 Q. I'm just asking you who entered into</p> <p>13 the agreement between Highland and – and HCRE</p> <p>14 for the provision of services by Highland?</p> <p>15 MS. DEITSCH-PEREZ: Asked and</p> <p>16 answered.</p> <p>17 A. Yeah, again, same answer as before.</p> <p>18 I don't think anybody specifically, formally</p> <p>19 did it.</p> <p>20 Q. Okay. Is it – are the terms of the</p> <p>21 agreement written down anywhere?</p> <p>22 A. No, like I said, it is just</p> <p>23 understood the accounting department and tax</p> <p>24 department would handle the accounting and tax</p> <p>25 for all entities.</p>	<p style="text-align: right;">Page 383</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Did the legal department also</p> <p>3 provide services to HCRE?</p> <p>4 A. It would depend on the specific</p> <p>5 entity. In the case of HCRE I think they used</p> <p>6 the – the two lawyers that worked at NexPoint.</p> <p>7 I don't think they used the legal</p> <p>8 staff per se. I think they – the shared</p> <p>9 services that they relied on were accounting</p> <p>10 and tax primarily.</p> <p>11 Q. Did Mark Patrick do work for HCRE</p> <p>12 while he was employed by Highland?</p> <p>13 A. Boy, I don't know. I imagine</p> <p>14 probably tax-related stuff.</p> <p>15 Q. Did HCRE ever pay Highland anything</p> <p>16 for the services that it received?</p> <p>17 MS. DEITSCH-PEREZ: Are you talking</p> <p>18 about cash or –</p> <p>19 MR. MORRIS: Please, please, please.</p> <p>20 – I'm trying to be really patient,</p> <p>21 Deborah, but please no speaking objections.</p> <p>22 Mr. Dondero is a very sophisticated man.</p> <p>23 We have done this many times</p> <p>24 together. He will ask me if he doesn't</p> <p>25 understand the question. And if you would</p>

<p>Page 384</p> <p>1 DONDERO - 10/29/21</p> <p>2 like to object, by all means. I don't have</p> <p>3 a problem with that. I don't.</p> <p>4 MS. DEITSCH-PEREZ: But I asked –</p> <p>5 (speaking simultaneously.)</p> <p>6 Q. Mr. Dondero – Mr. Dondero –</p> <p>7 Mr. Dondero, did HCRE ever pay anything to</p> <p>8 Highland for services rendered?</p> <p>9 MS. DEITSCH-PEREZ: Asked and</p> <p>10 answered.</p> <p>11 A. Yeah, that is what I was going to</p> <p>12 say. Same answer. You know, not – not a</p> <p>13 formal cash remuneration, but, you know, a –</p> <p>14 which wouldn't have been much anyway. But –</p> <p>15 but more in terms of track record and presence</p> <p>16 in the market that then Highland or NexPoint</p> <p>17 could use to further its business.</p> <p>18 Q. Are you saying that – that all of</p> <p>19 the entities were working kind of as a unified</p> <p>20 unit and got synergistic benefits from the work</p> <p>21 that it did?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I don't want to over generalize and</p> <p>25 say yes to that, but – but there were</p>	<p>Page 385</p> <p>1 DONDERO - 10/29/21</p> <p>2 definitely – you know, when I use the DAF</p> <p>3 example, you know, we would have never got the</p> <p>4 Harvard vest as an investor if it wasn't for</p> <p>5 the track record that the DAF had in CLO</p> <p>6 equity.</p> <p>7 I think there is business that</p> <p>8 NexPoint got in the real estate space</p> <p>9 benefiting from the HCRE performance. So I do</p> <p>10 believe there was specific definable benefit</p> <p>11 gained for the modest amount of cost of</p> <p>12 services provided.</p> <p>13 Q. And you –</p> <p>14 A. There wasn't specific remuneration.</p> <p>15 Q. And you controlled all of these</p> <p>16 entities; right?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. Well, the DAF is independent and</p> <p>20 separate, but the – the HCRE-type entity, yes.</p> <p>21 Q. And did you decide that HCRE and</p> <p>22 HCMS and the DAF wouldn't be required to pay</p> <p>23 for services rendered to Highland?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>
<p>Page 386</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. My recollection on the services and</p> <p>3 the HCRE is that the dollar value of the</p> <p>4 services provided was – was small and nominal.</p> <p>5 With regard to the DAF, it was more</p> <p>6 complicated. There is rules – there is</p> <p>7 charging rules in terms of fees and then there</p> <p>8 is also – I wasn't the one that decided that.</p> <p>9 And there are other issues there other than</p> <p>10 just the value for services argument.</p> <p>11 And so I don't – the short answer</p> <p>12 is, I don't know and I'm not involved in that,</p> <p>13 and I don't understand why sometimes there is</p> <p>14 one and sometimes there isn't one. Even to</p> <p>15 this day I don't know the answer to that.</p> <p>16 Q. Did – did – did you decide on</p> <p>17 behalf of Highland that Highland would provide</p> <p>18 services to DAF without receiving a stream of</p> <p>19 income in return?</p> <p>20 MS. DEITSCH-PEREZ: John, I think</p> <p>21 we're really far outside of either any of</p> <p>22 the 30(b)(6)s or the permissible topics for</p> <p>23 Mr. Dondero's personal deposition.</p> <p>24 So could you move on?</p> <p>25 MR. MORRIS: Okay. I will after I</p>	<p>Page 387</p> <p>1 DONDERO - 10/29/21</p> <p>2 get an answer to this question.</p> <p>3 A. Can you repeat the question?</p> <p>4 Q. Sure.</p> <p>5 Did you make the decision on behalf</p> <p>6 of Highland to provide services to the DAF</p> <p>7 without receiving a stream of income in return?</p> <p>8 MS. DEITSCH-PEREZ: Same objection.</p> <p>9 A. Yeah, I think I answered it with my</p> <p>10 rambling a few minutes ago, but the short</p> <p>11 answer is no.</p> <p>12 Q. Who made that decision? Who made</p> <p>13 that decision?</p> <p>14 MS. DEITSCH-PEREZ: Was that Mike's</p> <p>15 dog or yours?</p> <p>16 MR. MORRIS: That was my dog. I</p> <p>17 apologize.</p> <p>18 MS. DEITSCH-PEREZ: Okay.</p> <p>19 Q. Who made that decision, sir?</p> <p>20 A. I wasn't sure –</p> <p>21 MS. DEITSCH-PEREZ: Again – again,</p> <p>22 John, this is well beyond the scope of the</p> <p>23 30(b)(6)s or even anything permissible for</p> <p>24 Mr. Dondero's personal. And, in fact, you</p> <p>25 said last time that is it, that was my last</p>

<p>Page 388</p> <p>1 DONDERO - 10/29/21</p> <p>2 question. So...</p> <p>3 MR. MORRIS: That is – that is</p> <p>4 because I thought that he would say as the</p> <p>5 control person at the enterprise that he</p> <p>6 made the decision, but he said that he</p> <p>7 didn't.</p> <p>8 So I'm just asking one follow-up</p> <p>9 question. I just want to know – Deborah,</p> <p>10 please.</p> <p>11 Q. I just want to know who made the</p> <p>12 decision on behalf of Highland to render</p> <p>13 services to the DAF without receiving a stream</p> <p>14 of income in return.</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form of the question for all of the reasons</p> <p>17 I stated before.</p> <p>18 A. And I don't know the answer.</p> <p>19 Q. Okay. So looking back at the</p> <p>20 document on the screen, we're going to ask –</p> <p>21 I'm going to ask these questions in your</p> <p>22 capacity as NexPoint's 30(b)(6) representative,</p> <p>23 okay?</p> <p>24 A. Sure.</p> <p>25 Q. And do you understand that the</p>	<p>Page 389</p> <p>1 DONDERO - 10/29/21</p> <p>2 document on the screen is NexPoint's answer to</p> <p>3 Highland's amended complaint?</p> <p>4 A. Yes.</p> <p>5 Q. Did you review this document before?</p> <p>6 A. Just generally.</p> <p>7 Q. And did you authorize the filing of</p> <p>8 this document on behalf of NexPoint?</p> <p>9 A. Yes, yes.</p> <p>10 Q. Are you aware of anything in this</p> <p>11 document today that you believe to be</p> <p>12 inaccurate?</p> <p>13 A. I think the – on the affirmative</p> <p>14 defenses on the – do you remember on the prior</p> <p>15 one we had the – I think it was called</p> <p>16 justification as the first one, but there</p> <p>17 wasn't a prepay in that one?</p> <p>18 Q. Correct.</p> <p>19 A. I think this one there were prepay,</p> <p>20 but the justification defense is missing from</p> <p>21 the front here. And I think that is – I think</p> <p>22 if that were to continue – I think that is</p> <p>23 partly due to different law firms and what was</p> <p>24 known at the time, et cetera, but I would say</p> <p>25 that is – that is the – that is the one thing</p>
<p>Page 390</p> <p>1 DONDERO - 10/29/21</p> <p>2 that jumps out at me between the two.</p> <p>3 MR. MORRIS: Okay. Can we go to</p> <p>4 Paragraph 80, and let's see if we can see</p> <p>5 what Mr. Dondero is talking about.</p> <p>6 Q. Okay. So I'm just going to focus on</p> <p>7 the first three paragraphs, 80, 81, and 82, and</p> <p>8 ask you whether – whether you are aware of any</p> <p>9 facts that concern the affirmative defenses set</p> <p>10 forth in those paragraphs. And I think they're</p> <p>11 related, and that is why I'm asking you to do</p> <p>12 it all together, but we can do it one at a</p> <p>13 time, whatever you are comfortable with.</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form. I mean, other than the facts in</p> <p>16 those paragraphs?</p> <p>17 MR. MORRIS: You are doing it again,</p> <p>18 Deborah.</p> <p>19 MS. DEITSCH-PEREZ: It –</p> <p>20 MR. MORRIS: Please, please.</p> <p>21 MS. DEITSCH-PEREZ: John, when you</p> <p>22 ask questions – I understand Mr. Dondero</p> <p>23 is sophisticated, but he's also not a</p> <p>24 lawyer, and when you ask questions that are</p> <p>25 misleading, I'm going to interject</p>	<p>Page 391</p> <p>1 DONDERO - 10/29/21</p> <p>2 something.</p> <p>3 MR. MORRIS: It is completely</p> <p>4 improper. He doesn't need to be a lawyer.</p> <p>5 He's a 30(b)(6) witness, and I'm asking</p> <p>6 such a simple question, what facts do you</p> <p>7 have that support the affirmative defense.</p> <p>8 A. Okay. Is it okay if I repeat some</p> <p>9 of them from the prior one?</p> <p>10 Q. Sure. Whatever you are comfortable</p> <p>11 with.</p> <p>12 A. The – to the extent that – to the</p> <p>13 extent that the notes were prepaid – prepaid</p> <p>14 significantly, it is a real question on whether</p> <p>15 or not there could have been a breach at the</p> <p>16 end of the year, even if there wasn't a payment</p> <p>17 at the end of the year.</p> <p>18 There is no logical reason, nor</p> <p>19 would I have ever authorized or suggested no</p> <p>20 payment to put us on – in default due to a de</p> <p>21 minimis amount of money, like a few hundred</p> <p>22 thousand dollars, even if I was highly annoyed</p> <p>23 with Seery, even if we knew that Seery and</p> <p>24 Highland had overcharged NexPoint by whatever</p> <p>25 it was, 14, 16 million bucks, I would not have</p>

<p>Page 392</p> <p>1 DONDERO - 10/29/21</p> <p>2 let a small amount cause a – cause a breach.</p> <p>3 You know, the – how would I – how</p> <p>4 would I add to that now. The overpayment on</p> <p>5 the \$14 million, holding back additional shared</p> <p>6 services amount, made an inordinate amount of</p> <p>7 sense.</p> <p>8 There was supposed to be at that</p> <p>9 time – there was another netting from Seery in</p> <p>10 terms of wanting to be fair and reasonable, you</p> <p>11 know, with employees and with the transition of</p> <p>12 the estate, et cetera, and everything was going</p> <p>13 to get trued up.</p> <p>14 So I do believe there was an</p> <p>15 expectation of a netting, et cetera, but</p> <p>16 overall, Highland should have paid it. It</p> <p>17 shouldn't have let it breach the cause, but at</p> <p>18 least when I found out about it and they knew I</p> <p>19 was annoyed. And I told them I didn't want it</p> <p>20 to be in default, they gave me the numbers and</p> <p>21 the amounts to cure it in their mind, and they</p> <p>22 accepted it.</p> <p>23 Now, I think they should have gone</p> <p>24 back and incorporated prepaids and said that no</p> <p>25 amounts were due because of the prepaids, et</p>	<p>Page 393</p> <p>1 DONDERO - 10/29/21</p> <p>2 cetera, but the calculation that they came up</p> <p>3 to get it in compliance in good standing was a</p> <p>4 million 4. And just like we relied on them to</p> <p>5 pay it and keep us out of default, we relied on</p> <p>6 them to set the amount to cure.</p> <p>7 But I guess I would make the</p> <p>8 argument that it shouldn't have been, but</p> <p>9 again, I didn't want to mince – I didn't want</p> <p>10 to on small dollars make an argument that could</p> <p>11 get us in bigger trouble – bigger trouble. So</p> <p>12 it was easier to – to pay the million bucks</p> <p>13 than it was to argue that it wasn't due.</p> <p>14 Q. Did you at any time in your capacity</p> <p>15 as the person in control of NexPoint instruct</p> <p>16 anybody at Highland to make the payment that</p> <p>17 was due at the end of 2020?</p> <p>18 A. Not specifically to pay it or not</p> <p>19 specifically not to pay it. It was something,</p> <p>20 again, small and de minimis that I expected to</p> <p>21 be done in due course.</p> <p>22 MR. MORRIS: I move to strike.</p> <p>23 Q. It's a very simple question.</p> <p>24 Did you personally take any steps to</p> <p>25 ensure that NexPoint made the payment that was</p>
<p>Page 394</p> <p>1 DONDERO - 10/29/21</p> <p>2 due at the end of 2020?</p> <p>3 MS. DEITSCH-PEREZ: Asked and</p> <p>4 answered.</p> <p>5 A. Yes, I would like to repeat my same</p> <p>6 answer.</p> <p>7 Q. Did you tell anybody to make the</p> <p>8 payment on behalf of NexPoint at the end of</p> <p>9 2020?</p> <p>10 MS. DEITSCH-PEREZ: Asked and</p> <p>11 answered.</p> <p>12 A. I would like to give the same answer</p> <p>13 that you – you – you struck.</p> <p>14 Q. Can you just say yes or no, sir, did</p> <p>15 you tell anybody to make the payment at the end</p> <p>16 of 2020 on behalf of NexPoint?</p> <p>17 MS. DEITSCH-PEREZ: Asked and</p> <p>18 answered.</p> <p>19 A. I don't want to give anything beyond</p> <p>20 the answer that I gave.</p> <p>21 Q. Okay.</p> <p>22 A. I get myself in trouble because I</p> <p>23 paraphrase. I don't want to answer yes – I</p> <p>24 don't think yes or no would be an appropriate</p> <p>25 answer. I want to stay with the answer that I</p>	<p>Page 395</p> <p>1 DONDERO - 10/29/21</p> <p>2 gave.</p> <p>3 Q. Okay. I'm going to say the word</p> <p>4 "Yankees," and every time I say the word</p> <p>5 "Yankees" today, everybody should know that</p> <p>6 that is the question that I'm going to bring to</p> <p>7 the Court on a motion to compel, okay?</p> <p>8 It's a very simple question. It's a</p> <p>9 very simple question. I will ask one more</p> <p>10 time, and if you don't want to answer, that is</p> <p>11 fine.</p> <p>12 MS. DEITSCH-PEREZ: What –</p> <p>13 Q. Mr. Dondero – Mr. Dondero, in</p> <p>14 December of 2020, did you give anybody any</p> <p>15 instructions at Highland to make sure that</p> <p>16 NexPoint made the payment that was due at the</p> <p>17 end of the year?</p> <p>18 MS. DEITSCH-PEREZ: Asked and</p> <p>19 answered.</p> <p>20 A. I think that means I'm supposed to</p> <p>21 stick with the answer that I gave.</p> <p>22 MS. DEITSCH-PEREZ: You're on mute,</p> <p>23 John. John, you're on mute. John, you're</p> <p>24 on mute. John, we can't hear you.</p> <p>25 THE WITNESS: I do like it better</p>

<p>Page 396</p> <p>1 DONDERO - 10/29/21</p> <p>2 when he yells at me on mute.</p> <p>3 MS. DEITSCH-PEREZ: John, we can't</p> <p>4 hear you.</p> <p>5 COURT REPORTER: We can't hear you,</p> <p>6 John.</p> <p>7 MR. MORRIS: You can't hear me?</p> <p>8 COURT REPORTER: Now we can.</p> <p>9 MS. DEITSCH-PEREZ: Now we can hear</p> <p>10 you, but we couldn't hear you. It looks</p> <p>11 like you were yelling, but we couldn't hear</p> <p>12 you.</p> <p>13 A. I do like it better when you yell at</p> <p>14 me on mute.</p> <p>15 Q. I try not to yell at you, and I hope</p> <p>16 that you haven't perceived this -- we do have a</p> <p>17 videotape this time. So to the extent that</p> <p>18 anybody perceives your comment as suggesting</p> <p>19 that I have yelled at you, I would invite them</p> <p>20 to look at the video.</p> <p>21 MS. DEITSCH-PEREZ: Well, we said we</p> <p>22 couldn't hear you, but your animation</p> <p>23 looked like that.</p> <p>24 Q. Sir, can you identify any person in</p> <p>25 the world acting on behalf of NexPoint who</p>	<p>Page 397</p> <p>1 DONDERO - 10/29/21</p> <p>2 instructed Highland to make the payment that</p> <p>3 was due on the NexPoint term note in December</p> <p>4 of 2020?</p> <p>5 MS. DEITSCH-PEREZ: John, that is</p> <p>6 the fifth or sixth time.</p> <p>7 MR. MORRIS: It is a completely</p> <p>8 different question. Please.</p> <p>9 MS. DEITSCH-PEREZ: Could you read</p> <p>10 it back, if I was mistaken. So read it</p> <p>11 back.</p> <p>12 (Record read.)</p> <p>13 A. NexPoint did not have the accounting</p> <p>14 staff or the systems or the records or the</p> <p>15 knowledge to have any person in the world at</p> <p>16 NexPoint to give that instruction.</p> <p>17 So the long answer -- the short</p> <p>18 answer is no, but the long answer is we had</p> <p>19 been kept away from our books and records. I</p> <p>20 think we largely still don't have them, and</p> <p>21 there would -- I am not aware of anybody who --</p> <p>22 anybody in the world at NexPoint who made that</p> <p>23 request.</p> <p>24 Q. Frank Waterhouse was the treasurer</p> <p>25 of NexPoint in December of 2020; is that</p>
<p>Page 398</p> <p>1 DONDERO - 10/29/21</p> <p>2 correct?</p> <p>3 A. I think he was very much viewing his</p> <p>4 responsibilities as Highland related and as an</p> <p>5 employee of Highland. But yes, based on that</p> <p>6 incumbency certificate, but that is your --</p> <p>7 your question to ask Frank if he was taking</p> <p>8 that seriously, but NexPoint was relying on</p> <p>9 Highland.</p> <p>10 Q. Do you have any other facts that you</p> <p>11 are aware of that relate to the affirmative</p> <p>12 defenses set forth in Paragraphs 81 through 82?</p> <p>13 A. I think I -- I think I've said them</p> <p>14 all.</p> <p>15 MR. MORRIS: Okay. It is 2:13</p> <p>16 Eastern time. Let's just take a short</p> <p>17 half-hour lunch break, and let's return at</p> <p>18 2:45, or 1:45 Central.</p> <p>19 VIDEOGRAPHER: Off the record, 1:13.</p> <p>20 (Recess taken 1:13 p.m. to 1:48 p.m.)</p> <p>21 VIDEOGRAPHER: Back on the record,</p> <p>22 1:48.</p> <p>23 Q. Mr. Dondero, are you comfortable?</p> <p>24 A. Yes.</p> <p>25 Q. And are you able to proceed?</p>	<p>Page 399</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Did you speak with anybody</p> <p>4 during the break about the substance of this</p> <p>5 deposition?</p> <p>6 A. No.</p> <p>7 Q. You entered into certain oral</p> <p>8 agreements with your sister concerning some of</p> <p>9 the notes at issue in these lawsuits.</p> <p>10 Do I have that right?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. Can you rephrase or repeat, please?</p> <p>14 Q. Sure.</p> <p>15 You entered into certain oral</p> <p>16 agreements with your sister concerning certain</p> <p>17 of the notes at issue in these lawsuits.</p> <p>18 Do I have that right?</p> <p>19 MS. DEITSCH-PEREZ: Object --</p> <p>20 A. Yes.</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form. And I'm going to object -- object</p> <p>23 every time because it just -- just so it is</p> <p>24 on the record because you are saying "your</p> <p>25 sister" without giving her -- her capacity.</p>

<p>Page 400</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Okay.</p> <p>3 MS. DEITSCH-PEREZ: But I don't want</p> <p>4 to disrupt the deposition, so I'm just</p> <p>5 telling you why I'm doing it and he can</p> <p>6 continue to answer thereafter. That is why</p> <p>7 I'm doing it.</p> <p>8 Q. Okay. Can we – can we agree,</p> <p>9 Mr. Dondero, when I refer to your sister in the</p> <p>10 context of oral agreements that she was</p> <p>11 entering into those agreements with you as a</p> <p>12 representative of Dugaboy – as Dugaboy</p> <p>13 trustee, as representative for a majority of</p> <p>14 the class A interest holders of Highland?</p> <p>15 A. Yeah. How about just to make it</p> <p>16 simple let's just call it the Dugaboy trustee,</p> <p>17 and everybody will know that it is my sister</p> <p>18 and everybody will know that it is the majority</p> <p>19 of the class A unit holders.</p> <p>20 Q. Okay. Okay. I appreciate that and</p> <p>21 I will do just that.</p> <p>22 You entered into certain oral</p> <p>23 agreements with the Dugaboy trustee concerning</p> <p>24 certain of the notes at issue in these</p> <p>25 lawsuits; is that right?</p>	<p>Page 401</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Let's discuss the purpose of</p> <p>4 those oral agreements.</p> <p>5 MR. MORRIS: Can we put back up on</p> <p>6 the screen Mr. Dondero's answer.</p> <p>7 Q. And while we're doing that,</p> <p>8 Mr. Dondero, can you confirm that your sister</p> <p>9 is the only trustee of the Dugaboy Investment</p> <p>10 Trust?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. For what period of time are we</p> <p>14 talking about?</p> <p>15 Q. During the period of time at which</p> <p>16 you entered into the oral agreements with the</p> <p>17 Dugaboy trustee.</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. Yeah, I believe she has been the</p> <p>21 trustee since 2015 and remains so today. I</p> <p>22 don't have an awareness of – I don't have an</p> <p>23 awareness of another functional trustee.</p> <p>24 So some of these – sometimes</p> <p>25 complex trusts have other layers that are</p>
<p>Page 402</p> <p>1 DONDERO - 10/29/21</p> <p>2 called trustees but they're not trustees per</p> <p>3 se. But I think I'm over thinking it. But I'm</p> <p>4 not aware of anybody I've interacted with,</p> <p>5 other than her, as trustee with regard to the</p> <p>6 notes.</p> <p>7 Q. Okay. So up on the screen we</p> <p>8 have – no, that is the wrong document.</p> <p>9 MR. MORRIS: We need Exhibit 31,</p> <p>10 please.</p> <p>11 Yeah, there you go. That one.</p> <p>12 Perfect. Okay.</p> <p>13 MS. DEITSCH-PEREZ: 31 is not – oh,</p> <p>14 is that the '03 answer?</p> <p>15 MR. MORRIS: Correct, that is</p> <p>16 Mr. Dondero's answer.</p> <p>17 Q. Do you see that, sir, on the screen?</p> <p>18 MS. DEITSCH-PEREZ: Hang on. I'm</p> <p>19 going to get it again.</p> <p>20 Okay. If you want a hard copy, I</p> <p>21 have one here but he's got it up.</p> <p>22 Q. Do you see on the screen,</p> <p>23 Mr. Dondero, marked as Exhibit 31 is your</p> <p>24 answer to Highland's amended complaint?</p> <p>25 A. Yes.</p>	<p>Page 403</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay.</p> <p>3 MR. MORRIS: Can we go to</p> <p>4 Paragraph 82, please.</p> <p>5 Q. Is it your understanding that</p> <p>6 Paragraph 82 describes, among other things, in</p> <p>7 general terms your oral agreements with –</p> <p>8 between you and the Dugaboy trustee?</p> <p>9 A. Yes.</p> <p>10 Q. Is it your position that the oral</p> <p>11 agreements that you entered into with your</p> <p>12 sister – withdrawn.</p> <p>13 Is it your contention that the oral</p> <p>14 agreements you entered into with the Dugaboy</p> <p>15 trustee applied to each of the notes that were</p> <p>16 executed by NexPoint and that are the subject</p> <p>17 of Highland's lawsuit against NexPoint?</p> <p>18 A. Yes.</p> <p>19 Q. Is it your contention that the oral</p> <p>20 agreements that were entered into with the</p> <p>21 Dugaboy trustee apply to the notes executed by</p> <p>22 HCMS that are the subject of Highland's lawsuit</p> <p>23 against HCMS?</p> <p>24 A. Yes.</p> <p>25 Q. Is it your contention that the oral</p>

<p>Page 404</p> <p>1 DONDERO - 10/29/21</p> <p>2 agreements between you and the Dugaboy trustee</p> <p>3 apply to the notes that were executed by HCRE</p> <p>4 that are the subject of the lawsuit that</p> <p>5 Highland has commenced against HCRE?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do I understand correctly</p> <p>8 that your oral agreements with your sister do</p> <p>9 not apply to the notes that were executed on</p> <p>10 behalf of HCMFA that are the subject of the</p> <p>11 lawsuit that Highland commenced against HCMFA?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. I appreciate that.</p> <p>14 Do you see in this paragraph towards</p> <p>15 the middle it says, quote: The purpose of this</p> <p>16 agreement was to provide compensation to</p> <p>17 defendant, James Dondero, who was otherwise</p> <p>18 underpaid, compared to reasonable compensation</p> <p>19 levels in the industry through the use of</p> <p>20 forgivable loans, a practice that was standard</p> <p>21 at HCMLP in the industry.</p> <p>22 Have I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Is that the purpose of the agreement</p> <p>25 that you entered into with your sister –</p>	<p>Page 405</p> <p>1 DONDERO - 10/29/21</p> <p>2 withdrawn.</p> <p>3 Is that the purpose of the agreement</p> <p>4 that you entered into with the Dugaboy trustee</p> <p>5 concerning the notes at issue in the lawsuits</p> <p>6 that were commenced against you personally?</p> <p>7 Withdrawn. That was a bad question.</p> <p>8 Does that purpose apply only to the</p> <p>9 notes that you executed or does it apply to the</p> <p>10 corporate notes as well?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 Other than HCMFA?</p> <p>14 MR. MORRIS: Correct. I think we've</p> <p>15 established the scope of the agreements.</p> <p>16 A. To give a complete answer, from my</p> <p>17 perspective it is about 50 million of notes</p> <p>18 between – current balance between NexPoint,</p> <p>19 Services, myself, and HCRE.</p> <p>20 Q. And HCMS; right?</p> <p>21 A. Yes, Services, Highland Capital</p> <p>22 Management, yes.</p> <p>23 Q. Okay. So I just want to know, that</p> <p>24 sentence there concerning the purpose was</p> <p>25 omitted from the answers of NexPoint, HCMS,</p>
<p>Page 406</p> <p>1 DONDERO - 10/29/21</p> <p>2 HCRE.</p> <p>3 And I'm happy to walk you through to</p> <p>4 show you. And I just want to know in your</p> <p>5 capacity as a 30(b)(6) witness for those</p> <p>6 entities, if you know why that statement of</p> <p>7 purpose was omitted.</p> <p>8 A. Well, we talked about it earlier. I</p> <p>9 think there is some cleanup. There has been</p> <p>10 multiple lawyers involved. We didn't know</p> <p>11 which loans were prepaid, which loans weren't.</p> <p>12 But, you know, I don't know why it was omitted</p> <p>13 but it applies to all of them.</p> <p>14 MS. DEITSCH-PEREZ: I think that is</p> <p>15 the first time that I've noticed that. So,</p> <p>16 John, I'm going to take a mea culpa. I</p> <p>17 think that is a cut-and-paste error.</p> <p>18 MR. MORRIS: All right. Well, I</p> <p>19 will – I will just point out that the</p> <p>20 affirmative defense concerning the oral</p> <p>21 agreements is the exact same in all four</p> <p>22 answers, except for the omission of the</p> <p>23 statement of purpose for the three</p> <p>24 corporate entities.</p> <p>25 Q. And so, Mr. Dondero, is it fair to</p>	<p>Page 407</p> <p>1 DONDERO - 10/29/21</p> <p>2 say that you don't know why that statement of</p> <p>3 purpose was omitted from the corporate</p> <p>4 entities' answers?</p> <p>5 A. Yeah, I don't know why it is omitted</p> <p>6 or why the complaints aren't consistent with</p> <p>7 that regard.</p> <p>8 Q. Okay. But it is your – it is your</p> <p>9 position as the purpose – as one of the people</p> <p>10 who entered into this oral agreement that the</p> <p>11 purpose for the – for the condition subsequent</p> <p>12 agreement is the same as for the corporate</p> <p>13 entities as it is for you, as stated in this</p> <p>14 paragraph; is that right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. We talked a little bit about</p> <p>17 the NexPoint term note.</p> <p>18 Do you remember that?</p> <p>19 A. Yes.</p> <p>20 Q. And do you recall that in its</p> <p>21 original form the NexPoint term note was for a</p> <p>22 principal amount of approximately \$30 million?</p> <p>23 A. Yes.</p> <p>24 Q. And do you recall that the NexPoint</p> <p>25 term note was a rollover of the outstanding</p>

<p>Page 408</p> <p>1 DONDERO - 10/29/21</p> <p>2 principal and interest then due on certain</p> <p>3 promissory notes that had previously been given</p> <p>4 by NexPoint to Highland?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 MR. MORRIS: Can we put up, please,</p> <p>8 Exhibit Number 2, which I believe is the</p> <p>9 complaint against NexPoint.</p> <p>10 (Exhibit 2 marked.)</p> <p>11 MR. MORRIS: And if we can go to</p> <p>12 Exhibit Number 1 of Deposition Exhibit</p> <p>13 Number 2.</p> <p>14 Q. Okay. And do you see – I'm sorry,</p> <p>15 sir, do you see that Exhibit Number 1 to the</p> <p>16 complaint is a promissory note dated May 31st,</p> <p>17 2017 in the approximate amount of</p> <p>18 \$30.75 million?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And is that your signature on</p> <p>21 page 2?</p> <p>22 A. Looks like it.</p> <p>23 Q. Okay. And did you sign this note on</p> <p>24 behalf of NexPoint on or around May 31st, 2017?</p> <p>25 A. I assume so.</p>	<p>Page 409</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Do you know if you read the note</p> <p>3 before you signed it?</p> <p>4 A. Not likely.</p> <p>5 Q. Do you recall whether there was</p> <p>6 anything about the note that you didn't</p> <p>7 understand before you signed it on behalf of</p> <p>8 NexPoint?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. Yeah, I'm not – I doubt I read it,</p> <p>12 so I don't remember objecting to anything.</p> <p>13 Q. Okay. Looking at Paragraph 2.1, am</p> <p>14 I characterizing that section fairly when I say</p> <p>15 that the borrower was required to make an</p> <p>16 annual installment payment at the end of each</p> <p>17 calendar year?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. I see that paragraph, yes.</p> <p>21 Q. Okay. And did you understand when</p> <p>22 you signed it that an annual installment</p> <p>23 payment would be due at the end of each year by</p> <p>24 NexPoint?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p>Page 410</p> <p>1 DONDERO - 10/29/21</p> <p>2 form.</p> <p>3 A. I never read it that closely.</p> <p>4 Q. So as the control person of</p> <p>5 NexPoint, is it fair to say then that you don't</p> <p>6 recall having an understanding when you signed</p> <p>7 this note that NexPoint would be required to</p> <p>8 make annual payments at the end of each year?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. I didn't have knowledge of the</p> <p>12 specifics, and again, I would describe those</p> <p>13 specifics as de minimis.</p> <p>14 Q. Okay. Do you see – do you have any</p> <p>15 idea who drafted this note?</p> <p>16 A. It would have come from accounting.</p> <p>17 I think they have boilerplate – I don't know</p> <p>18 if they work with legal at all. I have no</p> <p>19 idea, but it would have come through</p> <p>20 accounting.</p> <p>21 Q. Do you recall that all three of the</p> <p>22 term notes at issue were signed on the same</p> <p>23 day, May 31st, 2017?</p> <p>24 A. That doesn't surprise me. I think</p> <p>25 there was an accounting reason, if I remember</p>	<p>Page 411</p> <p>1 DONDERO - 10/29/21</p> <p>2 correctly. I think it had something to do with</p> <p>3 either the audit or the financials or if we had</p> <p>4 a credit facility at the time. I think that is</p> <p>5 probably why, but I don't remember exactly.</p> <p>6 Q. Do you have any other recollection</p> <p>7 as to why all three notes were executed at the</p> <p>8 end of May 2017?</p> <p>9 A. Again, I believe they're – the –</p> <p>10 aggregating or solidifying them into one</p> <p>11 defined note I think was required by the</p> <p>12 auditors or the – the accounting department as</p> <p>13 best practices. I don't think – it wasn't a</p> <p>14 regulatory reason and it wasn't a compliance</p> <p>15 reason. I believe it was just an accounting or</p> <p>16 an audit reason.</p> <p>17 Q. Did you ever make sure on behalf of</p> <p>18 NexPoint that the terms of the promissory note</p> <p>19 were fair and reasonable?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 A. Yeah, I don't remember ever</p> <p>23 negotiating or reading it that closely. And</p> <p>24 again, I think the view from all concerned is</p> <p>25 that it was relatively de minimis from the</p>

<p>Page 412</p> <p>1 DONDERO - 10/29/21</p> <p>2 balance sheet at Highland then or now and/or de</p> <p>3 minimis relevant to NexPoint's value.</p> <p>4 Q. It is a \$30 million note. Do I have</p> <p>5 that right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And it was material enough to</p> <p>8 be included in Highland's financial statements;</p> <p>9 is that correct?</p> <p>10 A. Anything material or not as part of</p> <p>11 doing proper audited financials needs to be</p> <p>12 properly included.</p> <p>13 Q. Okay. And you know, because you</p> <p>14 signed the management representation letter,</p> <p>15 that this note was specifically disclosed to</p> <p>16 PwC and included in both Highland's and</p> <p>17 NexPoint's audited financial statements;</p> <p>18 correct?</p> <p>19 A. I would – I would have been shocked</p> <p>20 if it wasn't, if it is an asset and a liability</p> <p>21 respectively of the companies.</p> <p>22 Q. Okay. Do you see the section on</p> <p>23 acceleration upon default, Paragraph 4?</p> <p>24 A. Yes.</p> <p>25 Q. Have you ever seen that section</p>	<p>Page 413</p> <p>1 DONDERO - 10/29/21</p> <p>2 before?</p> <p>3 A. No.</p> <p>4 Q. Do you think a prudent executive</p> <p>5 signing a \$30 million note should take the time</p> <p>6 to read the terms and conditions of the note?</p> <p>7 A. Not necessarily.</p> <p>8 Q. Under what circumstances do you</p> <p>9 think that an executive shouldn't take the time</p> <p>10 to read the terms and conditions of a</p> <p>11 \$30 million promissory note?</p> <p>12 A. When it is between affiliates,</p> <p>13 between friendly affiliates with no even</p> <p>14 inkling that bankruptcy or the parties could be</p> <p>15 at odds create a note, when it is a soft note</p> <p>16 with limited collateral and limited other</p> <p>17 protections. And then the servicing or value</p> <p>18 of the note is de minimis relative to the</p> <p>19 balance sheets of each entity I think is a good</p> <p>20 reason or logical reason for the executives on</p> <p>21 both sides not to spend much time focusing on</p> <p>22 it.</p> <p>23 Q. All right. So you thought it was</p> <p>24 reasonable not to read this particular note for</p> <p>25 the reasons you just gave.</p>
<p>Page 414</p> <p>1 DONDERO - 10/29/21</p> <p>2 Do I have that right?</p> <p>3 A. Right.</p> <p>4 MR. MORRIS: Okay. Can we go to the</p> <p>5 next page, please.</p> <p>6 Q. Do you see Paragraph 5? There is a</p> <p>7 paragraph entitled Waiver.</p> <p>8 A. Yes.</p> <p>9 Q. And I will read it out loud: Maker</p> <p>10 hereby waives grace, demand, presentment for</p> <p>11 payment, notice of non-payment, protest, notice</p> <p>12 of protest, notice of intent to accelerate,</p> <p>13 notice of acceleration, and all other notices</p> <p>14 of any kind hereunder.</p> <p>15 Have I read that correctly?</p> <p>16 A. Yes.</p> <p>17 Q. Do you know that that paragraph is</p> <p>18 included in every single note that you signed</p> <p>19 that is part of the litigation that we're here</p> <p>20 to talk about today?</p> <p>21 A. You have to – you have to define</p> <p>22 when. You know, like today I know that it</p> <p>23 is – it is in those notes.</p> <p>24 At the end of '20, Seery and DSI</p> <p>25 were withholding all notes, all information,</p>	<p>Page 415</p> <p>1 DONDERO - 10/29/21</p> <p>2 anything regarding the company from any of the</p> <p>3 other subsidiaries, and Frank was administering</p> <p>4 the notes on behalf of both the related parties</p> <p>5 and Highland.</p> <p>6 So at the time – at the time I</p> <p>7 would have – I would have never known that at</p> <p>8 the end of 2020. And it is crazy to think I</p> <p>9 would have remembered a clause in a soft note</p> <p>10 from three years earlier.</p> <p>11 Q. Okay. Is it fair to say that – do</p> <p>12 you understand today that that provision is</p> <p>13 included in every note that you signed?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. You're saying it, so I believe you.</p> <p>17 I'm not asking you to go show me all the other</p> <p>18 notes, but –</p> <p>19 Q. Thank you.</p> <p>20 A. – I'm assuming it is in all the</p> <p>21 other notes. I will take your word for it.</p> <p>22 Q. And is it fair to say that at the</p> <p>23 time you signed these notes you didn't take the</p> <p>24 time to read that particular provision?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>

<p>Page 416</p> <p>1 DONDERO - 10/29/21</p> <p>2 form.</p> <p>3 A. That is correct. A lot of it is</p> <p>4 boilerplate. And, again, treasury or</p> <p>5 accounting would have put in what was necessary</p> <p>6 for regulatory, tax, audit purposes. Maybe the</p> <p>7 auditors put that in. I have no idea.</p> <p>8 But the content and the bullet</p> <p>9 points here, the nine paragraphs on a soft note</p> <p>10 would have been put in by other people and</p> <p>11 administered by other people other than me.</p> <p>12 Q. What is a soft note?</p> <p>13 A. You know, like a secured – I mean,</p> <p>14 a note that isn't a hard note, like a note that</p> <p>15 isn't secured, deed in lieu, UCC filed,</p> <p>16 guaranteed, you know, performance and bad boy</p> <p>17 clauses and all of that other stuff.</p> <p>18 A soft note is an unsecured loan</p> <p>19 that has basic terms to it, but it is likely</p> <p>20 subject to renegotiation over time.</p> <p>21 Q. Were any of the notes that you</p> <p>22 signed subject to negotiation?</p> <p>23 A. Well, I'm saying by definition that</p> <p>24 is what a soft note is.</p> <p>25 Q. One that – that is not subject to</p>	<p>Page 417</p> <p>1 DONDERO - 10/29/21</p> <p>2 the negotiation – to negotiations?</p> <p>3 A. No, one that is over time subject to</p> <p>4 negotiation or modification.</p> <p>5 Q. Okay.</p> <p>6 A. Because there is – there is</p> <p>7 limited – there is limited, team collateral,</p> <p>8 guarantee, bad boy features in – in a soft</p> <p>9 note.</p> <p>10 Q. Okay. Perhaps my question wasn't</p> <p>11 clear.</p> <p>12 Did the notes that you signed – did</p> <p>13 you negotiate them with anybody, the terms of</p> <p>14 each note?</p> <p>15 A. No.</p> <p>16 Q. Okay. Did you personally decide on</p> <p>17 the terms of each note?</p> <p>18 A. No. Again, they were two highly</p> <p>19 solvent, highly well-capitalized subsidiaries,</p> <p>20 and the amount of the notes was de minimis and</p> <p>21 friendly, and they were soft notes administered</p> <p>22 by a centralized treasury shared services</p> <p>23 department.</p> <p>24</p> <p>25 They were the ones deciding what it</p>
<p>Page 418</p> <p>1 DONDERO - 10/29/21</p> <p>2 took to be compliant from an accounting</p> <p>3 regulatory-wise standpoint, but wasn't – they</p> <p>4 were trying to come up with a balance note,</p> <p>5 which I think this is, such that it wouldn't</p> <p>6 have to be negotiated or haggled by any of the</p> <p>7 parties.</p> <p>8 And there is no evidence of any of</p> <p>9 the notes ever being haggled or ever being</p> <p>10 negotiated.</p> <p>11 Q. Okay. I appreciate that.</p> <p>12 At the time you signed each of the</p> <p>13 notes on behalf of the obligors, did the</p> <p>14 obligors have an intention at the time you put</p> <p>15 your signature on the page of repaying the</p> <p>16 notes in accordance with their terms?</p> <p>17 A. Yes. They're all – soft note</p> <p>18 doesn't mean it's not a bona fide note. They</p> <p>19 were all intended to be bona fide notes, and</p> <p>20 they all are bona fide notes that were intended</p> <p>21 to be paid and for the – virtually most part,</p> <p>22 were always paid or prepaid and, you know, paid</p> <p>23 in accordance.</p> <p>24 Q. Do you see to the right there is a</p> <p>25 list of prior notes?</p>	<p>Page 419</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes.</p> <p>3 Q. And is it your understanding that</p> <p>4 this note substituted and superseded the</p> <p>5 promissory notes that are listed on Exhibit A</p> <p>6 on the page there?</p> <p>7 A. Yeah. I mean, effectively pay those</p> <p>8 off and reestablish an aggregate note.</p> <p>9 Q. Right. And Exhibit A actually set</p> <p>10 forth the outstanding principal and interest</p> <p>11 that NexPoint owed Highland under the prior</p> <p>12 notes as defined there as of May 31st, 2017;</p> <p>13 right?</p> <p>14 A. Yeah, that is what it looks like.</p> <p>15 Q. Okay. And – and so the initial</p> <p>16 principal amount of the prior notes was what is</p> <p>17 stated there, approximately \$27.675 million?</p> <p>18 A. Right.</p> <p>19 Q. Okay. You wouldn't have signed this</p> <p>20 note on behalf of NexPoint if you didn't</p> <p>21 believe at the time you signed it that NexPoint</p> <p>22 owed Highland that amount of money; correct?</p> <p>23 A. Yeah, it is a bona fide note,</p> <p>24 consistent with my testimony.</p> <p>25 Q. Okay. Do you know why NexPoint</p>

<p style="text-align: right;">Page 420</p> <p>1 DONDERO - 10/29/21</p> <p>2 borrowed the money from Highland at the times</p> <p>3 and in the amounts listed on Exhibit A?</p> <p>4 A. No.</p> <p>5 Q. Did you authorize NexPoint to borrow</p> <p>6 the money that is reflected in the prior note</p> <p>7 set forth on Exhibit A?</p> <p>8 A. I don't know. Probably some of</p> <p>9 them, yes.</p> <p>10 Q. Okay. And you have no recollection</p> <p>11 at all as to why NexPoint borrowed over</p> <p>12 \$27 million from Highland in the 12-month</p> <p>13 period from August 2014 to July 2015?</p> <p>14 A. Not without being refreshed.</p> <p>15 Q. Okay. Do you have any knowledge as</p> <p>16 to what NexPoint did with the proceeds from</p> <p>17 these loans?</p> <p>18 A. Not without being refreshed.</p> <p>19 Q. Okay. And you contend that this</p> <p>20 note is subject to – subject to one of your</p> <p>21 oral agreements with the Dugaboy trustee;</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. Who decided to include this</p> <p>25 particular note in your agreement with the</p>	<p style="text-align: right;">Page 421</p> <p>1 DONDERO - 10/29/21</p> <p>2 Dugaboy trustee?</p> <p>3 A. Me, myself.</p> <p>4 Q. Okay. What was the purpose of</p> <p>5 including this note in your agreement with the</p> <p>6 Dugaboy trustee?</p> <p>7 Was it to provide you with a</p> <p>8 compensation?</p> <p>9 A. Yeah. I mean, in fact, I think it</p> <p>10 was articulated in that big paragraph</p> <p>11 reasonably well that my cash compensation, I</p> <p>12 believe through any lens, people would look at</p> <p>13 it as de minimis from the standpoint of</p> <p>14 Highland as asset manager.</p> <p>15 I don't think it was more than a</p> <p>16 couple million bucks in a year and it went</p> <p>17 down, I think, in the '15 through '20 period.</p> <p>18 So I think it is common in private</p> <p>19 companies to loan money that is bona fide debt</p> <p>20 and then forgive it at different times to</p> <p>21 manage compensation and incentives to managers</p> <p>22 of private companies.</p> <p>23 This is a – we're in – we each</p> <p>24 have experts talking about it, but I think this</p> <p>25 is, you know, typical.</p>
<p style="text-align: right;">Page 422</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Can you identify any moment in the</p> <p>3 25 or 26 year history that you were president</p> <p>4 of Highland where Highland forgave an</p> <p>5 intercompany loan for the purpose of providing</p> <p>6 compensation to you or any other employee</p> <p>7 except for the agreements that are described in</p> <p>8 Paragraph 82 of your answer?</p> <p>9 A. Boy, I know we have masked it. I</p> <p>10 don't know if we – it sounds like we may not</p> <p>11 have sent it to you, but we have done it for a</p> <p>12 dozen employees over the years in – in fairly</p> <p>13 significant amount –</p> <p>14 Q. I'm going to interrupt you, sir,</p> <p>15 because it's not responsive to my question. I</p> <p>16 apologize for that. I'm just focusing on</p> <p>17 intercompany loans.</p> <p>18 Can you identify any loan in the 25</p> <p>19 or 26 years that you were president, an</p> <p>20 intercompany loan where – where Highland was</p> <p>21 the payee that was forgiven for purposes of</p> <p>22 giving you or any employee compensation, other</p> <p>23 than – other than the agreements that you</p> <p>24 struck with the Dugaboy trustee?</p> <p>25 A. It is an odd question because I'm</p>	<p style="text-align: right;">Page 423</p> <p>1 DONDERO - 10/29/21</p> <p>2 the only one at the compensation level with the</p> <p>3 interrelated entities who could possibly get</p> <p>4 intercompany loans forgiven as part of the</p> <p>5 comp, but it –</p> <p>6 Q. Okay. So let me ask a cleaner –</p> <p>7 let me ask a cleaner question. I appreciate</p> <p>8 that clarification.</p> <p>9 Other than the agreements described</p> <p>10 in Paragraph 82, can you think of any other</p> <p>11 intercompany loan that was ever forgiven while</p> <p>12 you were president of Highland for the purpose</p> <p>13 of giving you compensation?</p> <p>14 A. I don't – I don't know.</p> <p>15 Q. This is an important issue; right?</p> <p>16 The notion of a prior practice. It is your</p> <p>17 contention that there was a prior practice at</p> <p>18 Highland – hold on one second. I apologize.</p> <p>19 Sorry about that. Somebody almost</p> <p>20 dropped an air conditioner out the window.</p> <p>21 MS. DEITSCH-PEREZ: That would not</p> <p>22 be good.</p> <p>23 MR. MORRIS: No.</p> <p>24 Q. All right. Apologies.</p> <p>25 MR. MORRIS: May I have the last</p>

<p style="text-align: right;">Page 424</p> <p>1 DONDERO - 10/29/21</p> <p>2 question read back?</p> <p>3 (Record read.)</p> <p>4 Q. I'm going to start all over here.</p> <p>5 Mr. Dondero, do you contend that</p> <p>6 there was a practice at Highland of forgiving</p> <p>7 loans; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. And do you recall that we talked</p> <p>10 about that issue back in May?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And since -- since that time</p> <p>13 have you made any effort to gather any</p> <p>14 information that would demonstrate that there</p> <p>15 was a prior practice at Highland of forgiving</p> <p>16 loans?</p> <p>17 A. Yes.</p> <p>18 Q. And what efforts have you made?</p> <p>19 A. Like I said, we amassed a list, and</p> <p>20 not insignificant list and not insignificant</p> <p>21 amounts, proportionate to the people's</p> <p>22 compensation where it was a practice.</p> <p>23 You know, for some people for</p> <p>24 relocation, for some people for bonuses, for</p> <p>25 house purposes, for senior executives, senior</p>	<p style="text-align: right;">Page 425</p> <p>1 DONDERO - 10/29/21</p> <p>2 executives at the bank and board members at the</p> <p>3 bank in the seven-figure kind of numbers that</p> <p>4 were then subsequently forgiven.</p> <p>5 It is -- I know we amassed more than</p> <p>6 a dozen examples that were significant and</p> <p>7 material.</p> <p>8 MR. MORRIS: Deborah, I apologize.</p> <p>9 It is certainly possible I missed it, but I</p> <p>10 don't recall seeing any list or any</p> <p>11 documents of any kind that Mr. Dondero has</p> <p>12 described.</p> <p>13 Have they been produced?</p> <p>14 MS. DEITSCH-PEREZ: I think so. I</p> <p>15 will double-check, but I believe that</p> <p>16 they're listed --</p> <p>17 MR. MORRIS: I know there is a list</p> <p>18 of -- I apologize. I know there is a list</p> <p>19 of names in one of the discovery responses.</p> <p>20 But other than the list of names in the</p> <p>21 discovery response, I don't recall</p> <p>22 receiving any documents at all.</p> <p>23 MS. DEITSCH-PEREZ: No. And I think</p> <p>24 we asked you for the documents because we</p> <p>25 don't have access to the documents on</p>
<p style="text-align: right;">Page 426</p> <p>1 DONDERO - 10/29/21</p> <p>2 Highland's server. The only thing I can</p> <p>3 think of that we might owe you is there</p> <p>4 might be a few additional names to list in</p> <p>5 the interrogatory, and I will check whether</p> <p>6 that has been done.</p> <p>7 MR. MORRIS: Okay.</p> <p>8 Q. Mr. Dondero, you sign management</p> <p>9 representation letters in connection with</p> <p>10 Highland's audit each year; is that right?</p> <p>11 A. Yes.</p> <p>12 Q. Do you understand that you have an</p> <p>13 obligation when you sign the management</p> <p>14 representation to disclose to the auditor all</p> <p>15 agreements with affiliated entities and people</p> <p>16 that are deemed to be material?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. Generally, yes.</p> <p>20 Q. Okay. And is it your understanding</p> <p>21 that at least since 2008 Highland has disclosed</p> <p>22 to its auditors all agreements with affiliates</p> <p>23 that are material, as defined in the management</p> <p>24 representation letter?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 427</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And would that include any</p> <p>3 agreements to forgive loans that were deemed to</p> <p>4 be material amounts?</p> <p>5 A. No, because it is contingent in long</p> <p>6 term and speculative.</p> <p>7 Q. But at some point if it is forgiven</p> <p>8 would that be -- would that be an event that</p> <p>9 would be disclosed to the auditor?</p> <p>10 A. Sure.</p> <p>11 Q. Okay. So is it fair to say that all</p> <p>12 loans that were deemed to be material to the</p> <p>13 extent they were forgiven were disclosed to the</p> <p>14 auditors?</p> <p>15 A. Yes.</p> <p>16 Q. Okay.</p> <p>17 A. But, yeah, the only caveat I would</p> <p>18 put on it is we have such limited information</p> <p>19 regarding Cornerstone and Trust Life, which is</p> <p>20 part of my agreement with the Dugaboy trustee</p> <p>21 or with the majority of class A holders.</p> <p>22 They could have been sold in</p> <p>23 secrecy, without disclosure to us, such that</p> <p>24 the notes are all forgiven at this point, but</p> <p>25 we -- we -- we may never know.</p>

<p style="text-align: right;">Page 428</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. So you can't rely on anything that</p> <p>3 you don't know; is that fair?</p> <p>4 A. Yeah.</p> <p>5 MS. DEITSCH-PEREZ: Objection to</p> <p>6 form.</p> <p>7 A. Yeah, we can't rely on things we</p> <p>8 don't know and we can't rely on the debtor to</p> <p>9 be honorable.</p> <p>10 Q. Well, the debtor has produced to</p> <p>11 you, sir, every single audited financial</p> <p>12 statement without redaction since 2008. Are</p> <p>13 you aware of that?</p> <p>14 A. That is actually news to me because</p> <p>15 we were asking for them a couple of months ago.</p> <p>16 That must be – that must be a new production.</p> <p>17 Q. No. Actually, it was produced to</p> <p>18 you way back in July. You are not aware of</p> <p>19 that?</p> <p>20 A. No, I'm looking –</p> <p>21 MS. DEITSCH-PEREZ: Hang on.</p> <p>22 A. I'm looking at Deborah. She'll –</p> <p>23 MS. DEITSCH-PEREZ: I will get the</p> <p>24 date.</p> <p>25 A. Yeah. I would love to see them.</p>	<p style="text-align: right;">Page 429</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. So then – so then it – so is it</p> <p>3 fair to say, sir, that when you are describing</p> <p>4 this practice of forgiveness of loans, you are</p> <p>5 doing so without having reviewed any of the</p> <p>6 audited financial statements that Highland</p> <p>7 provided to your attorneys going back to 2008?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. What I'm saying, I guess, is that we</p> <p>11 haven't treated the loans as forgiven yet</p> <p>12 because if the condition precedent has been</p> <p>13 satisfied, we're not aware of it yet.</p> <p>14 Now, if there is something in those</p> <p>15 financial statements that will show that the</p> <p>16 condition precedent is satisfied, then we have</p> <p>17 a decision to make about the – or figure out</p> <p>18 what the mechanism is for forgiving the loans.</p> <p>19 Q. Are you saying that there are loans</p> <p>20 out there subject to forgiveness where the</p> <p>21 maker is somebody other than you or an entity</p> <p>22 that you control?</p> <p>23 A. No, I'm just – I'm talking about</p> <p>24 the 50 million of loans that we've been talking</p> <p>25 about.</p>
<p style="text-align: right;">Page 430</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. So – so I just want to go</p> <p>3 back and focus on your assertion that there was</p> <p>4 this practice of loan forgiveness. I think you</p> <p>5 have agreed with me that any loan that was</p> <p>6 forgiven in a material amount would be</p> <p>7 contained within the Highland audited financial</p> <p>8 statements; right?</p> <p>9 A. I believe they – material or not,</p> <p>10 they were all included in the Highland</p> <p>11 financials. Now, they might not have been</p> <p>12 specifically footnoted, you know.</p> <p>13 Like in other words, if we gave</p> <p>14 somebody half a million bucks to relocate and</p> <p>15 then forgave the loan, it might just be mixed</p> <p>16 with all other compensation in the line item.</p> <p>17 It might not have been listed separately</p> <p>18 because it would have been small relative to</p> <p>19 the overall financial statement.</p> <p>20 Q. But you're just speculating right</p> <p>21 now because, in fact, you haven't read the</p> <p>22 audited financial statements for the purpose of</p> <p>23 seeing whether or not there were loan – loans</p> <p>24 that were forgiven and disclosed; right?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p style="text-align: right;">Page 431</p> <p>1 DONDERO - 10/29/21</p> <p>2 form.</p> <p>3 A. Well, what I'm saying, just to be</p> <p>4 clear, is I haven't looked at the presentation</p> <p>5 of forgiven loans in the historic financials</p> <p>6 because I was unaware that we had gotten</p> <p>7 historic financials, but I am testifying that</p> <p>8 we had amassed at least a dozen, 15 material</p> <p>9 examples of material loan forgiveness amounts</p> <p>10 to different executives.</p> <p>11 Q. All right. Do you have any</p> <p>12 documentation to support your assertion of the</p> <p>13 practice of forgiving loans at Highland?</p> <p>14 A. Again, we have very, very little</p> <p>15 access to anything, and we didn't take anything</p> <p>16 with us that we weren't supposed to take, so we</p> <p>17 don't have any of that documentation.</p> <p>18 At NexBank, one of the sister</p> <p>19 companies that we still have full control over</p> <p>20 our records, we could show seven-figure-plus</p> <p>21 loans to senior management and the entire board</p> <p>22 of directors and forgiveness thereof as an</p> <p>23 example, but that – that is the only</p> <p>24 documentation that we would be able to present</p> <p>25 without having access to the records that you</p>

<p>Page 432</p> <p>1 DONDERO - 10/29/21</p> <p>2 guys are keeping from us.</p> <p>3 MR. MORRIS: I move to strike the</p> <p>4 last comment, and I take offense to it,</p> <p>5 sir. We're not withholding anything, okay.</p> <p>6 Q. Would the NexBank audited financial</p> <p>7 statements include a disclosure of the loans</p> <p>8 that you are describing?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So is it fair to say that if</p> <p>11 Highland forgave loans, it would be disclosed</p> <p>12 in its audited financial statements?</p> <p>13 MS. DEITSCH-PEREZ: Object, asked</p> <p>14 and answered.</p> <p>15 A. Well, just to be clear, these loans</p> <p>16 like the one up on the sheet, those were</p> <p>17 included in Highland's financials, those loans,</p> <p>18 just like the NexBank loans, when they were</p> <p>19 made to senior executives were included. But</p> <p>20 there wasn't a -- at NexBank there wasn't any</p> <p>21 kind of disclosure that said, these might be</p> <p>22 forgiven, or these are the terms that they</p> <p>23 would be forgiven under, just like there was no</p> <p>24 disclosure in the Highland financials that</p> <p>25 these are the terms that it might be forgiven</p>	<p>Page 433</p> <p>1 DONDERO - 10/29/21</p> <p>2 under, et cetera, et cetera.</p> <p>3 Q. It's certainly disclosed in the</p> <p>4 financials when it was forgiven. Will you --</p> <p>5 will you concede that point?</p> <p>6 A. Yes, sure.</p> <p>7 Q. Okay. Let's move on.</p> <p>8 Let's go to HCMS. Are you familiar</p> <p>9 with the notes at issue in the lawsuit that was</p> <p>10 commenced by Highland against HCMS?</p> <p>11 MS. DEITSCH-PEREZ: S or --</p> <p>12 A. S as in Services. Yes.</p> <p>13 MR. MORRIS: Okay. Can we please</p> <p>14 put up Exhibit 3.</p> <p>15 (Exhibit 3 marked.)</p> <p>16 MS. DEITSCH-PEREZ: Is that in the</p> <p>17 binder that you sent?</p> <p>18 MR. MORRIS: Yes, as Exhibit 3.</p> <p>19 MS. DEITSCH-PEREZ: Okay.</p> <p>20 MR. MORRIS: And if we could go to</p> <p>21 the Exhibits 1 through 4, okay.</p> <p>22 Q. Sir, we've put up on the screen</p> <p>23 Exhibit 1 to Exhibit 3, which is the complaint</p> <p>24 against HCMS. Do you see Exhibit 1 up on your</p> <p>25 screen?</p>
<p>Page 434</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yeah. This is the \$150,000</p> <p>3 promissory note; is that what that is?</p> <p>4 Q. Yes, sir.</p> <p>5 A. Okay. As long as I can see it on</p> <p>6 the screen, I don't need to find it in hard</p> <p>7 copy, do I?</p> <p>8 MS. DEITSCH-PEREZ: Yeah.</p> <p>9 MR. MORRIS: Can you scroll to the</p> <p>10 second page, P.J.</p> <p>11 Q. Is that your signature, sir?</p> <p>12 A. Close.</p> <p>13 Q. Are you aware that your signature is</p> <p>14 affixed to a \$150,000 promissory note that was</p> <p>15 made by HCMS to Highland Capital Management?</p> <p>16 A. Like I said --</p> <p>17 MS. DEITSCH-PEREZ: Objection, form.</p> <p>18 A. Like I said, it's close. I don't</p> <p>19 know if that is mine, but it's close.</p> <p>20 Q. Do you have any reason to believe</p> <p>21 that either you or somebody you authorized</p> <p>22 didn't sign this particular promissory note?</p> <p>23 A. Not specifically.</p> <p>24 MR. MORRIS: Okay. Can we go to the</p> <p>25 first page, please.</p>	<p>Page 435</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Did HCMS receive a loan from</p> <p>3 Highland in the amount of \$150,000 on March</p> <p>4 28th, 2018?</p> <p>5 A. I assume so.</p> <p>6 Q. Okay. You wouldn't have either</p> <p>7 signed or allowed your signature to be affixed</p> <p>8 to this document if you didn't understand that</p> <p>9 HCMS had received from Highland \$150,000;</p> <p>10 correct?</p> <p>11 A. This is one of the many things I</p> <p>12 would have signed on a given day.</p> <p>13 Q. Okay. And -- and are you aware that</p> <p>14 this note was given to Highland's auditors?</p> <p>15 A. It could. I'm not aware</p> <p>16 specifically, but it should be.</p> <p>17 Q. Okay. Do you have any recollection</p> <p>18 as to why HCMS obtained this loan from</p> <p>19 Highland?</p> <p>20 A. Unless it says it on these two</p> <p>21 pages, I have no idea.</p> <p>22 Q. Okay. Do you have any recollection</p> <p>23 as to what HCMS did with the proceeds of this</p> <p>24 loan?</p> <p>25 A. No.</p>

<p>Page 436</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. Let's just flip through the</p> <p>3 Exhibits 2, 3, and 4, if we could.</p> <p>4 Looking at Exhibit 2, is that your</p> <p>5 signature on Exhibit 2, sir?</p> <p>6 A. Again, it is close.</p> <p>7 Q. Okay. And do you have any reason to</p> <p>8 believe that that is either not your signature</p> <p>9 or that you did not authorize somebody to sign</p> <p>10 this on behalf of HCMS in June of 2018?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 MR. MORRIS: Can we go to Exhibit 3,</p> <p>14 please, and if we can go to the signature</p> <p>15 line.</p> <p>16 Q. Do you see that that is Frank</p> <p>17 Waterhouse?</p> <p>18 A. Yes.</p> <p>19 MR. MORRIS: Okay. And can we go to</p> <p>20 the page before that, the first page.</p> <p>21 Q. Frank Waterhouse was the treasurer</p> <p>22 of HCMS in May 2019; correct?</p> <p>23 A. That is what it said right on that</p> <p>24 thing we saw earlier; right?</p> <p>25 Q. Incumbency certificate.</p>	<p>Page 437</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall that HCMS borrowed</p> <p>4 \$400,000 from Highland in or around May 2019?</p> <p>5 A. Not specifically.</p> <p>6 Q. Do you have any reason to believe</p> <p>7 that it didn't?</p> <p>8 A. I have no knowledge – I have no</p> <p>9 knowledge of what it was used for and whether</p> <p>10 it did or didn't.</p> <p>11 MR. MORRIS: Okay. Let's go to the</p> <p>12 next exhibit, please.</p> <p>13 Q. Do you see Frank Waterhouse signed</p> <p>14 here on behalf of the maker, HCMS Services?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Are you aware that HCMS</p> <p>17 borrowed \$150,000 from Highland in June 2019?</p> <p>18 A. No.</p> <p>19 Q. Okay. Do you have –</p> <p>20 A. I'm not aware and –</p> <p>21 Q. Do you have –</p> <p>22 A. I didn't – I'm sorry, go ahead. I</p> <p>23 was just saying, looking at Frank's signature,</p> <p>24 you know, we're switching from me signing to</p> <p>25 Frank signing. And I guess we're saying Frank</p>
<p>Page 438</p> <p>1 DONDERO - 10/29/21</p> <p>2 is an authorized signatory, although if you</p> <p>3 look at Frank's, it looks like an automated</p> <p>4 signature versus, you know, an actual</p> <p>5 signature, but I assume you went over this with</p> <p>6 him, but I don't have specific knowledge of</p> <p>7 these at all.</p> <p>8 Q. And do you know that Mr. Waterhouse</p> <p>9 from time to time used an electronic signature?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. I believe he did.</p> <p>13 Q. And you saw – you have seen his</p> <p>14 electronic signature on other documents; is</p> <p>15 that right?</p> <p>16 A. Yes.</p> <p>17 Q. So it doesn't surprise you to see</p> <p>18 his electronic signature on a note; correct?</p> <p>19 A. Yeah. Yeah, okay. Yeah, I don't</p> <p>20 know. But whether or not he did it or somebody</p> <p>21 else did it or – we're just getting a little</p> <p>22 far afoot from me signing it; right? That is</p> <p>23 all.</p> <p>24 Q. Right.</p> <p>25 A. To – Frank – Frank may have signed</p>	<p>Page 439</p> <p>1 DONDERO - 10/29/21</p> <p>2 it. He may have done it electronically or</p> <p>3 somebody may have done it electronically for</p> <p>4 him. Those are just different answers than me</p> <p>5 signing it; right?</p> <p>6 Q. Okay. And – and that is fair.</p> <p>7 Are you aware that on December 3rd,</p> <p>8 2020, Highland made a demand upon HCMS for</p> <p>9 payment under these four notes that we have</p> <p>10 just looked at?</p> <p>11 A. I knew there was a demand on the</p> <p>12 NexPoint one. Can you refresh me on this one?</p> <p>13 Q. Sure.</p> <p>14 MR. MORRIS: Can we go to the next</p> <p>15 exhibit in Exhibit 3. Exhibit 5.</p> <p>16 Q. You will see that there is a letter</p> <p>17 dated December 3rd, 2020, from Mr. Seery to</p> <p>18 HCMS?</p> <p>19 A. Yep.</p> <p>20 Q. And do you see that it was sent to</p> <p>21 the attention of Mr. Waterhouse?</p> <p>22 Do you see that, sir?</p> <p>23 A. Yes, yep.</p> <p>24 Q. And, again, Mr. Waterhouse at that</p> <p>25 time was the treasurer of HCMS to the best of</p>

<p>Page 440</p> <p>1 DONDERO - 10/29/21</p> <p>2 your recollection; correct?</p> <p>3 A. He primarily was the CFO of</p> <p>4 Highland. But, yes, I mean, I do see that.</p> <p>5 Q. Okay. And did you learn on or</p> <p>6 around December 3rd that Highland had made</p> <p>7 demand upon HCMS for payment of all outstanding</p> <p>8 principal and interest due under the four</p> <p>9 demand notes that are listed on the page there?</p> <p>10 A. Yes, yep.</p> <p>11 Q. So you knew that at the time; right?</p> <p>12 A. Well, more importantly I knew they</p> <p>13 were all subject to the same forgiveness</p> <p>14 provisions as the other note.</p> <p>15 Q. Okay. So I move to strike.</p> <p>16 You knew in December 3rd, 2020, that</p> <p>17 Highland made demand; correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And do you see that Highland</p> <p>20 gave HCMS an eight-day grace period or until</p> <p>21 December 11th, 2020, to make payment?</p> <p>22 A. Yes.</p> <p>23 Q. Under the demand note do you have</p> <p>24 any understanding that Highland was required to</p> <p>25 give any grace period at all?</p>	<p>Page 441</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. I don't know.</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 Q. Do you know whether HCMS ever</p> <p>6 responded to this demand letter prior to the</p> <p>7 commencement of litigation?</p> <p>8 A. I don't know.</p> <p>9 Q. Prior to the commencement of</p> <p>10 litigation, did you discuss with anyone whether</p> <p>11 HCMS should respond to Highland's demand</p> <p>12 letter?</p> <p>13 A. Did I discuss with anyone? No, I</p> <p>14 don't remember – I don't remember talking</p> <p>15 about this with Frank at all where –</p> <p>16 MS. DEITSCH-PEREZ: And I'm just</p> <p>17 going to stop you to make sure you don't</p> <p>18 blurt out any privileged communications, if</p> <p>19 there are any.</p> <p>20 We object to the disclosure. But</p> <p>21 with that caveat, go ahead.</p> <p>22 A. I'm sorry, repeat the question</p> <p>23 again. Let me try and keep it simple here.</p> <p>24 Q. Sure. It may be my fault.</p> <p>25 Mr. Dondero, you testified that you</p>
<p>Page 442</p> <p>1 DONDERO - 10/29/21</p> <p>2 were aware that Highland made a demand for</p> <p>3 payment on these four notes; correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Did you have any</p> <p>6 non-privileged communications at any time after</p> <p>7 Highland sent this letter about whether and how</p> <p>8 HCMS should respond?</p> <p>9 A. You know, let me just – let me</p> <p>10 adjust the prior answer for a second.</p> <p>11 I'm aware that this letter was sent.</p> <p>12 I'm not sure I knew contemporaneously or when I</p> <p>13 knew the letter was sent. I can't – I have no</p> <p>14 recollection of receiving it at the time.</p> <p>15 And to answer your question, I can't</p> <p>16 recollect talking to Frank or anybody else</p> <p>17 about it at the time. I'm not sure I knew</p> <p>18 about it at the time. But I have – I don't</p> <p>19 have any recollection of discussing it with</p> <p>20 anybody at or around the time.</p> <p>21 Q. Did you ever instruct anybody at any</p> <p>22 time to respond to this letter, whenever it is</p> <p>23 you learned about it?</p> <p>24 A. No.</p> <p>25 Q. Do you know if anyone acting on</p>	<p>Page 443</p> <p>1 DONDERO - 10/29/21</p> <p>2 behalf of HCMS ever informed Highland of HCMS'</p> <p>3 defenses to the – to the demand letter prior</p> <p>4 to the commencement of litigation?</p> <p>5 A. Yeah, Frank would be the person to</p> <p>6 ask there. I don't know.</p> <p>7 Q. I'm just asking you. Prior to the</p> <p>8 commencement of litigation, did you ever</p> <p>9 instruct anyone to inform Highland that the</p> <p>10 HCMS notes were subject to oral agreements with</p> <p>11 the Dugaboy trustee?</p> <p>12 A. I believe former Judge Lynn sent a</p> <p>13 letter in that regard. But other than that, I</p> <p>14 don't remember talking to anybody – I don't</p> <p>15 remember talking to the debtor about it per se.</p> <p>16 Q. It is your recollection that</p> <p>17 Judge Lynn sent a letter to Highland before the</p> <p>18 commencement of litigation, putting Highland on</p> <p>19 notice that the HCMS notes were the subject of</p> <p>20 oral agreements between you and the Dugaboy</p> <p>21 trust.</p> <p>22 Do I have that right?</p> <p>23 A. Yeah, that they were part of</p> <p>24 forgiveness or compensation or something. He</p> <p>25 sent a letter in that regard.</p>

<p style="text-align: right;">Page 444</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And was this part of a settlement</p> <p>3 discussion or was this in response to this</p> <p>4 demand letter?</p> <p>5 A. I don't know.</p> <p>6 Q. Have you produced that letter in</p> <p>7 discovery?</p> <p>8 MS. DEITSCH-PEREZ: I'm aware that</p> <p>9 you have the letter. I don't know if it</p> <p>10 was attached to something, but I know you</p> <p>11 have it.</p> <p>12 MR. MORRIS: Because you produced it</p> <p>13 in discovery or because Mr. Dondero is</p> <p>14 testifying that his recollection was that</p> <p>15 Mr. Dondero sent this letter to the debtor?</p> <p>16 MS. DEITSCH-PEREZ: The – the</p> <p>17 letter has either been produced or was</p> <p>18 attached to something or was used in a</p> <p>19 deposition, but I am aware that you have</p> <p>20 it. If you need it to be Bates stamped, we</p> <p>21 could do that.</p> <p>22 MR. MORRIS: I definitely need it to</p> <p>23 be Bates stamped, I do, because I'm not</p> <p>24 aware of this particular letter. But I</p> <p>25 appreciate that.</p>	<p style="text-align: right;">Page 445</p> <p>1 DONDERO - 10/29/21</p> <p>2 MR. RUKAVINA: This is Davor.</p> <p>3 Couple things, John – and I apologize for</p> <p>4 interjecting. I have not made an</p> <p>5 appearance yet today. Deborah has been</p> <p>6 objecting for everyone.</p> <p>7 Thomas Berghman will take over</p> <p>8 around 3:00 o'clock. Is that okay with</p> <p>9 you, John?</p> <p>10 He is probably just going to sit</p> <p>11 here and not object.</p> <p>12 MR. MORRIS: I will miss you and I</p> <p>13 hope you have safe travels.</p> <p>14 MR. RUKAVINA: Okay. Thank you very</p> <p>15 much.</p> <p>16 And, second, I think that the letter</p> <p>17 that is being referred to is the email</p> <p>18 letter, so I have produced it to you.</p> <p>19 With that, thank you everyone.</p> <p>20 MR. MORRIS: Okay. Take care.</p> <p>21 Q. Did anyone – did you ever instruct</p> <p>22 anyone in December 2020 to make the payments</p> <p>23 that Highland demanded under the HCMS notes?</p> <p>24 MS. DEITSCH-PEREZ: The demand notes</p> <p>25 that are listed here on the Exhibit 5?</p>
<p style="text-align: right;">Page 446</p> <p>1 DONDERO - 10/29/21</p> <p>2 MR. MORRIS: Yes.</p> <p>3 A. Yes, not that I recall.</p> <p>4 Q. Did you ever instruct anyone in</p> <p>5 December 2020 not to make the payments that</p> <p>6 Highland demanded that are listed in this</p> <p>7 exhibit?</p> <p>8 A. No.</p> <p>9 Q. Do you know why HCMS did not make</p> <p>10 the payments that Highland demanded under the</p> <p>11 notes?</p> <p>12 A. Again, beyond compensation</p> <p>13 forgiveness argument, no.</p> <p>14 MR. MORRIS: Okay. Let's go to the</p> <p>15 next exhibit, 6.</p> <p>16 (Exhibit 6 marked.)</p> <p>17 Q. And this is another one of the term</p> <p>18 notes; right?</p> <p>19 A. Yes.</p> <p>20 MR. MORRIS: And can we just go to</p> <p>21 the signature line, please.</p> <p>22 Q. Is that your signature, sir?</p> <p>23 A. That looks more like it.</p> <p>24 Q. And do you – are you willing to</p> <p>25 agree that you signed this promissory note in</p>	<p style="text-align: right;">Page 447</p> <p>1 DONDERO - 10/29/21</p> <p>2 favor of Highland on May 31st, 2017?</p> <p>3 A. Yes.</p> <p>4 Q. And is it fair to say you didn't</p> <p>5 read this note before you signed it?</p> <p>6 A. Correct. No reason to, really.</p> <p>7 Q. Okay. So it is fair to say that</p> <p>8 there is not a provision of this note that you</p> <p>9 didn't understand before you signed it;</p> <p>10 correct?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. That I didn't review it, so</p> <p>14 therefore I didn't have an opinion one way or</p> <p>15 the other.</p> <p>16 Q. Okay. This note substituted and</p> <p>17 superseded for the promissory notes that are</p> <p>18 set forth on Exhibit A to this document;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. So just like NexPoint and HCMS, HCRE</p> <p>22 also consolidated their outstanding demand</p> <p>23 notes into one term notes at the end of</p> <p>24 May 2017; right?</p> <p>25 A. Yep.</p>

<p style="text-align: right;">Page 448</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. Let's go to HCRE, if we can</p> <p>3 take this down and put up Exhibit 4.</p> <p>4 Actually, before we go to that, do</p> <p>5 you have any recollection as to why HCRE</p> <p>6 borrowed money from Highland in the amounts</p> <p>7 equal to the prior notes as set forth to the</p> <p>8 exhibit to the term note?</p> <p>9 A. Nope.</p> <p>10 Q. Do you have any recollection at all</p> <p>11 as to what HCRE did with the proceeds of the</p> <p>12 loans that it obtained from Highland?</p> <p>13 A. No.</p> <p>14 Q. This is Exhibit 4, so this is the</p> <p>15 complaint – this is actually the complaint</p> <p>16 against HCRE.</p> <p>17 MR. MORRIS: Can we go to Exhibit 6,</p> <p>18 please.</p> <p>19 MS. DEITSCH-PEREZ: Exhibit 6 of</p> <p>20 Exhibit 4?</p> <p>21 MR. MORRIS: No, I apologize. That</p> <p>22 was my mistake. Yes, Exhibit 6 to Exhibit</p> <p>23 4.</p> <p>24 MS. DEITSCH-PEREZ: Okay. If you</p> <p>25 want the hard copy, it is in a booklet.</p>	<p style="text-align: right;">Page 449</p> <p>1 DONDERO - 10/29/21</p> <p>2 Otherwise, she is pulling it up.</p> <p>3 Q. So this is the last of the three</p> <p>4 term notes. Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Also signed on May 31st, 2017;</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And if we could look at the</p> <p>10 signature line, is that your signature, sir?</p> <p>11 A. Yes.</p> <p>12 Q. And did you sign this note on behalf</p> <p>13 of HCRE on or about May 31st, 2017?</p> <p>14 A. Yes.</p> <p>15 Q. Did you read this note before you</p> <p>16 signed it?</p> <p>17 A. No.</p> <p>18 Q. And since you didn't read it, is it</p> <p>19 fair to say that there wasn't a provision of</p> <p>20 this agreement that you didn't understand at</p> <p>21 the time that you signed it?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. There is – there wasn't a</p> <p>25 provisions I did or didn't understand because I</p>
<p style="text-align: right;">Page 450</p> <p>1 DONDERO - 10/29/21</p> <p>2 didn't review it.</p> <p>3 Q. Okay. This note substituted and</p> <p>4 superseded for the promissory notes that are</p> <p>5 listed on Exhibit A on the right side of the</p> <p>6 page; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And Exhibit A set forth the</p> <p>9 outstanding principal and interest that HCRE</p> <p>10 owed to Highland under the prior notes as of</p> <p>11 May 31st, 2017; correct?</p> <p>12 A. Uh-huh.</p> <p>13 Q. That is a yes, sir; correct?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. Do you know why HCRE borrowed</p> <p>16 the money from Highland at the times and – and</p> <p>17 in the amounts set forth on Exhibit A to the</p> <p>18 promissory note?</p> <p>19 A. No.</p> <p>20 Q. Do you have any recollection as to</p> <p>21 what HCRE did with the proceeds of the loans</p> <p>22 that they had obtained from Highland between</p> <p>23 January 2014 and April 2015?</p> <p>24 A. No.</p> <p>25 Q. Can we call the three term notes</p>	<p style="text-align: right;">Page 451</p> <p>1 DONDERO - 10/29/21</p> <p>2 that were signed by NexPoint, HCRE, and HCMS on</p> <p>3 May 31st, 2017 collectively as the term notes?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. You had the authority to sign</p> <p>6 each of the term notes on behalf of each of the</p> <p>7 respective makers; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Each of the term notes was for a</p> <p>10 30-year term; correct?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. Who decided to give each note</p> <p>13 a 30-year term, if you know?</p> <p>14 A. The auditors, the accountants, not</p> <p>15 me.</p> <p>16 Q. But you knew that each of the notes</p> <p>17 was for a 30-year term; is that fair?</p> <p>18 A. Yes, I guess, yes.</p> <p>19 Q. Notes were unsecured; right?</p> <p>20 A. Yes.</p> <p>21 Q. And the notes were not the product</p> <p>22 of any negotiations; correct?</p> <p>23 A. Correct.</p> <p>24 Q. Is it fair to say that none of the</p> <p>25 makers of the term notes ever sought financing</p>

<p>Page 452</p> <p>1 DONDERO - 10/29/21</p> <p>2 from a third party as an alternative to the</p> <p>3 Highland notes?</p> <p>4 A. That's correct.</p> <p>5 Q. Okay. You don't have any reason to</p> <p>6 believe that an unrelated third party would</p> <p>7 have loaned money to NexPoint, HCRE, and HCMS</p> <p>8 on the terms set forth in each of the term</p> <p>9 notes, do you?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. I – it is not fair to draw that</p> <p>13 conclusion. You know, particularly NexPoint</p> <p>14 has borrowed a lot of money at much lower rates</p> <p>15 at or around 2017 and later, and to this day.</p> <p>16 Q. So then why –</p> <p>17 A. The same thing with HCRE.</p> <p>18 Q. So then why would HCRE and NexPoint</p> <p>19 enter into these loans rather than obtaining</p> <p>20 loans at lower interest rates if they were</p> <p>21 available?</p> <p>22 A. These are soft loans, again, so</p> <p>23 they're – especially affiliate soft loans to</p> <p>24 other creditors are viewed almost as equity or</p> <p>25 subordinated to senior secured mortgages or</p>	<p>Page 453</p> <p>1 DONDERO - 10/29/21</p> <p>2 other financings that NexPoint and HCRE did.</p> <p>3 So I would say that is – that is the reason.</p> <p>4 Q. Are you saying that Highland today</p> <p>5 really has equity interests in NexPoint, HCRE,</p> <p>6 and HCMS?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. Yeah, no, I didn't say that. I'm</p> <p>10 saying it has subordinated debt interest, but</p> <p>11 they are soft notes, so they're viewed as</p> <p>12 deeply subordinated equity-ish, so to speak, as</p> <p>13 far as the senior secured debtholders are</p> <p>14 concerned.</p> <p>15 Q. Well, that would be true of any</p> <p>16 senior secured debt relative to unsecured debt;</p> <p>17 isn't that right?</p> <p>18 A. Yes, but again, these are</p> <p>19 particularly soft notes, you know.</p> <p>20 Q. Okay. At the time you signed these</p> <p>21 notes, were you aware that each of the term</p> <p>22 notes required payment of an annual installment</p> <p>23 on December 31st of each year?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>
<p>Page 454</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. I knew there was more required</p> <p>3 periodic payments than historically, and that</p> <p>4 was part of – partly driven by the – the</p> <p>5 auditors, I believe.</p> <p>6 THE WITNESS: You know what, can</p> <p>7 we – can we take a break for like five or</p> <p>8 10 minutes, and then, you know, at most –</p> <p>9 at most I've got another hour in me today,</p> <p>10 and then so we could just work on when it</p> <p>11 fits on everybody else's calendar if we</p> <p>12 can't wrap up in an hour, okay?</p> <p>13 MR. MORRIS: No problem,</p> <p>14 Mr. Dondero. So the time now is what –</p> <p>15 what time do we have?</p> <p>16 VIDEOGRAPHER: Off the record, 2:56.</p> <p>17 (Recess taken 2:56 p.m. to 3:19 p.m.)</p> <p>18 VIDEOGRAPHER: Back on the record,</p> <p>19 3:19.</p> <p>20 Q. Are you ready to proceed, sir?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Did you speak with anybody</p> <p>23 during the break about the substance of this</p> <p>24 deposition?</p> <p>25 A. No.</p>	<p>Page 455</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. So we were just looking at the third</p> <p>3 in the series of term notes, and if we can go</p> <p>4 to the – I apologize, the first page of this</p> <p>5 one, just to refresh your recollection after</p> <p>6 the break that this is the term note that was</p> <p>7 executed by you on behalf of HCRE Partners on</p> <p>8 May 31st, 2017.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And I looked at Paragraph 5</p> <p>12 before, but I just want to make sure, you're</p> <p>13 telling me that you didn't read this before you</p> <p>14 signed it, do I have that right, Paragraph 5?</p> <p>15 A. Yes.</p> <p>16 Q. And so you are unaware – when did</p> <p>17 you first – when did you first become aware of</p> <p>18 the provision that is set forth in Paragraph 5?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I don't know.</p> <p>22 Q. Okay. Was it before or after the</p> <p>23 commencement of the litigation?</p> <p>24 A. I don't know.</p> <p>25 Q. Okay. NexPoint didn't make the</p>

<p>Page 456</p> <p>1 DONDERO - 10/29/21</p> <p>2 installment payment that was due at the end of</p> <p>3 2020; correct?</p> <p>4 MS. DEITSCH-PEREZ: Object to – are</p> <p>5 you still talking – have you left HCRE?</p> <p>6 MR. MORRIS: No. I said what I</p> <p>7 meant to. So we can take down the exhibit</p> <p>8 if that's the part that is confusing you.</p> <p>9 I appreciate that.</p> <p>10 MS. DEITSCH-PEREZ: Okay.</p> <p>11 Q. Okay. NexPoint didn't make the</p> <p>12 installment payment that was due at the end of</p> <p>13 2020; correct?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. Yeah. I mean, I think maybe the</p> <p>17 right way to describe it is Highland or –</p> <p>18 yeah, Highland or Frank Waterhouse on behalf of</p> <p>19 NexPoint didn't make the payment.</p> <p>20 Q. Okay. And HCRE didn't make the</p> <p>21 installment payment that was due at the end of</p> <p>22 2020; correct?</p> <p>23 A. I don't – I guess – okay, if they</p> <p>24 missed it too, I – I did not have specific</p> <p>25 awareness to that, I guess, but if you are</p>	<p>Page 457</p> <p>1 DONDERO - 10/29/21</p> <p>2 suing under it, I guess they did.</p> <p>3 Q. Right. And HCMS didn't make the</p> <p>4 payment that was due at the end of the year, to</p> <p>5 the best of your knowledge; correct?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. Yeah. I mean, what I'd just</p> <p>9 separate in my notes here is the HCMFA was just</p> <p>10 not – it wasn't a bona fide note, I guess,</p> <p>11 is – that is – which I guess is a</p> <p>12 different – a different conversation.</p> <p>13 Q. Yeah. Do you understand that the</p> <p>14 question was about HCMS? Let me restate the</p> <p>15 question.</p> <p>16 MS. DEITSCH-PEREZ: Yes.</p> <p>17 Q. HCMS –</p> <p>18 A. Oh, I'm sorry.</p> <p>19 MS. DEITSCH-PEREZ: John, I'm sorry,</p> <p>20 it is really hard on the video to</p> <p>21 distinguish between HCMF and HCMS, so if</p> <p>22 you could just –</p> <p>23 A. How about just say Services for</p> <p>24 Highland Capital Management Services, just</p> <p>25 say – instead of S, just say Services.</p>
<p>Page 458</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Sure. All right. So from now on, I</p> <p>3 will try and use the word "Services" and you</p> <p>4 will know that that means Highland Management</p> <p>5 Services, Inc.; is that fair?</p> <p>6 A. Yes, okay.</p> <p>7 Q. Okay. So Services didn't make the</p> <p>8 installment payment that was due at year-end;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And I just want to make sure</p> <p>12 that I have this right. Is it – is it the</p> <p>13 corporate obligors' – those three corporate</p> <p>14 obligors' contention that one of the reasons</p> <p>15 they didn't make the payments at the end of the</p> <p>16 year is that they were relying on Highland to</p> <p>17 make the payment for them?</p> <p>18 A. Absolutely.</p> <p>19 Q. Okay.</p> <p>20 A. It was due course de minimis, and</p> <p>21 those entities didn't have a single employee or</p> <p>22 capable financial person other than the people</p> <p>23 at Highland that were doing the shared services</p> <p>24 for them.</p> <p>25 Q. NexPoint didn't have any employees</p>	<p>Page 459</p> <p>1 DONDERO - 10/29/21</p> <p>2 in December 2020. Is that your testimony?</p> <p>3 A. I was thinking about HCRE and</p> <p>4 Services had zero employees. NexPoint had</p> <p>5 employees but none that were involved in basic</p> <p>6 accounting functions.</p> <p>7 Q. Okay. And – and there are people,</p> <p>8 including yourself, who were officers or</p> <p>9 employees of NexPoint in December 2020;</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. And HCRE had officers in December</p> <p>13 2020, including you; correct?</p> <p>14 A. Yes. Officers, yes.</p> <p>15 Q. And Services had officers in</p> <p>16 December 2020, including you; correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. I think in summary form, to</p> <p>19 be fair, I think we have identified one of the</p> <p>20 defenses for these three corporate obligors.</p> <p>21 Two of them have the defense of</p> <p>22 prepayment; right?</p> <p>23 A. Yes.</p> <p>24 Q. And one of them is NexPoint,</p> <p>25 NexPoint has the defense of prepayment.</p>

<p>Page 460</p> <p>1 DONDERO - 10/29/21</p> <p>2 Do you have that -- do I have that</p> <p>3 right?</p> <p>4 A. Yes.</p> <p>5 Q. Which of the other two, remind me?</p> <p>6 A. Services.</p> <p>7 Q. Okay. So NexPoint and Services have</p> <p>8 the defense of prepayment. Are there any other</p> <p>9 reasons that you know of that these three</p> <p>10 corporate obligors didn't make the annual</p> <p>11 installment payment that was due at the end of</p> <p>12 the year?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Again, they -- they should have been</p> <p>16 in regular course. Those payments -- using the</p> <p>17 word "payment" is almost like an overstatement</p> <p>18 of the significance or the amount. If the</p> <p>19 amounts were small in all cases, they should</p> <p>20 have been made or they should have been paid,</p> <p>21 even in the context of contention and even in</p> <p>22 the context of the larger amounts of money that</p> <p>23 Highland owed us.</p> <p>24 Q. I'm just -- I'm just asking a pretty</p> <p>25 simple question, sir. I don't mean to be</p>	<p>Page 461</p> <p>1 DONDERO - 10/29/21</p> <p>2 contentious with you. We have identified one</p> <p>3 defense that these corporate obligors contends</p> <p>4 exists; and that is, Highland was supposed to</p> <p>5 make the payment. Fair?</p> <p>6 A. Yes.</p> <p>7 Q. And then we have identified a second</p> <p>8 defense for NexPoint and HCMS, and that is</p> <p>9 their defense that they prepaid.</p> <p>10 Do I have that generally right?</p> <p>11 A. Yes.</p> <p>12 Q. Can you describe for me any other</p> <p>13 defenses that these three corporate obligors</p> <p>14 have for not making the payment that was due at</p> <p>15 the end of the year?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. I'm thinking. Not at the moment.</p> <p>19 Q. Okay. Did you instruct anyone in</p> <p>20 December of 2020 to make the installment</p> <p>21 payments that were due on December 31st under</p> <p>22 these three term notes?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form, asked and answered.</p> <p>25 A. No.</p>
<p>Page 462</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. Did you take any steps to</p> <p>3 confirm that Highland would make the payments</p> <p>4 that were due under these three term notes at</p> <p>5 the end of the year?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. No. I testified already the first I</p> <p>9 heard about it was a week or two later. And I</p> <p>10 called up Frank and confirmed with him to make</p> <p>11 sure they got paid and make sure they were back</p> <p>12 in compliance.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: I move to strike</p> <p>15 everything after the word "no."</p> <p>16 Q. Do you know whether anybody on</p> <p>17 behalf of any of the three corporate obligors</p> <p>18 under the term notes ever directed Highland to</p> <p>19 make the payments under them at the end of the</p> <p>20 year?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. Not before the end of the year, no.</p> <p>24 Q. Okay. And you know whether</p> <p>25 anybody acting on behalf of any of the three</p>	<p>Page 463</p> <p>1 DONDERO - 10/29/21</p> <p>2 corporate obligors under the term notes ever</p> <p>3 took any steps in December 2020 to make sure</p> <p>4 that Highland would, in fact, make the payments</p> <p>5 that were due at year-end?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. No, there was a reliance on</p> <p>9 Highland.</p> <p>10 Q. Okay. Is it your testimony that</p> <p>11 Highland was authorized to make the payments</p> <p>12 under the notes at year-end without being</p> <p>13 directed by a representative of the three</p> <p>14 corporate obligors?</p> <p>15 A. Yes. It is my contention that that</p> <p>16 is how it worked in prior years also.</p> <p>17 Q. And so you believe that nobody on</p> <p>18 behalf of any of the corporate obligors ever</p> <p>19 authorized or directed Highland to make the</p> <p>20 payments but that Highland did it without --</p> <p>21 without direction?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. Yes, typically. And in 2017 or</p> <p>25 2018, 2019, for sure.</p>

<p>Page 464</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. Okay. We have looked at one – at</p> <p>3 one December 3rd letter. I mean, do you</p> <p>4 remember that you also received a number of</p> <p>5 letters on December 3rd demanding payment on</p> <p>6 certain promissory notes?</p> <p>7 A. No.</p> <p>8 Q. All right.</p> <p>9 MR. MORRIS: Can we call up</p> <p>10 Exhibit 2, please. No, I apologize. Not</p> <p>11 Exhibit 2, Exhibit 4.</p> <p>12 (Exhibit 4 marked.)</p> <p>13 MS. DEITSCH-PEREZ: Exhibit 4 in the</p> <p>14 notebook?</p> <p>15 MR. MORRIS: Yes, ma'am.</p> <p>16 Okay. And now let's – let's go to</p> <p>17 the exhibits. Exhibit 2, Exhibit 3,</p> <p>18 Exhibit 4, Exhibit 5.</p> <p>19 Q. Do you see, sir, that this is a</p> <p>20 letter addressed to you on behalf of HCRE</p> <p>21 Partners that is also dated December 3rd, 2020?</p> <p>22 A. Yes.</p> <p>23 Q. Does that refresh your recollection</p> <p>24 that you also received notices, demand notices</p> <p>25 on or around December 3rd, 2020, with respect</p>	<p>Page 465</p> <p>1 DONDERO - 10/29/21</p> <p>2 to notes that were held by Highland?</p> <p>3 A. No.</p> <p>4 Q. Do you recall this letter at all?</p> <p>5 A. No, if I – if I had, I would have</p> <p>6 made the forgiveness argument or I would have</p> <p>7 told someone to make the forgiveness argument,</p> <p>8 but I don't remember this at all.</p> <p>9 Q. Okay. Is it fair to say that</p> <p>10 neither you nor anyone acting on behalf of</p> <p>11 yourself, HCMS, or HCRE ever responded to any</p> <p>12 of the demand letters at the beginning of</p> <p>13 December 2020?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. Yes, I don't – I don't know.</p> <p>17 Q. You don't have any knowledge of</p> <p>18 that; is that fair?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I don't know.</p> <p>22 Q. And you don't have any knowledge of</p> <p>23 anybody responding to any demand letter that</p> <p>24 was sent to HCMFA; correct?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p>Page 466</p> <p>1 DONDERO - 10/29/21</p> <p>2 form.</p> <p>3 A. HCMFA or Services?</p> <p>4 Q. HCMFA?</p> <p>5 A. I – I don't know. I don't have any</p> <p>6 knowledge.</p> <p>7 MR. MORRIS: Can we put up</p> <p>8 Exhibit 1, please.</p> <p>9 (Exhibit 1 marked.)</p> <p>10 MR. MORRIS: We probably want to go</p> <p>11 to Exhibit 3 of that document.</p> <p>12 Q. This one was sent to Mr. Waterhouse.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And did you become aware on</p> <p>16 or around December 3rd, 2020, that Highland</p> <p>17 made demand under the two notes listed in this</p> <p>18 letter?</p> <p>19 A. Yes. Why would this one go to</p> <p>20 Frank Waterhouse?</p> <p>21 Q. Was he the treasurer – was he the</p> <p>22 treasurer of Highland Capital Management Fund</p> <p>23 Advisors at the time?</p> <p>24 A. Right.</p> <p>25 Q. So does it make sense that the payee</p>	<p>Page 467</p> <p>1 DONDERO - 10/29/21</p> <p>2 on a note might send a demand letter to the</p> <p>3 treasurer of the maker of the note?</p> <p>4 MS. DEITSCH-PEREZ: Object to form.</p> <p>5 A. I'm just saying they could have sent</p> <p>6 the NexPoint letter or the Services letter to</p> <p>7 him also; right?</p> <p>8 Q. I don't – I think the NexPoint is</p> <p>9 only a term note; right? So there is no demand</p> <p>10 letter.</p> <p>11 A. No, I know that. But whatever –</p> <p>12 whatever the other one we were just looking at,</p> <p>13 the Services one could have gone to him, too.</p> <p>14 Anyway, whatever. It doesn't</p> <p>15 matter. But, no, I don't have a specific</p> <p>16 recollection of this, if that was your</p> <p>17 question.</p> <p>18 Q. You don't have – you don't have any</p> <p>19 recollection of Highland making demand under</p> <p>20 promissory notes that were issued by you and</p> <p>21 certain of your affiliates in early December</p> <p>22 2020. You don't remember that at all?</p> <p>23 A. There was a lot going on then. And,</p> <p>24 again, it wasn't something that we either</p> <p>25 thought was legitimate based on forgiveness or</p>

<p>Page 468</p> <p>1 DONDERO - 10/29/21</p> <p>2 other issues or it wasn't things that we</p> <p>3 thought were legitimate as part of the overall</p> <p>4 settlement.</p> <p>5 You've got to remember we didn't</p> <p>6 realize Seery betrayed the estate at this</p> <p>7 point. We thought we were moving towards, you</p> <p>8 know, resolution or a pot plan.</p> <p>9 Q. Okay.</p> <p>10 MR. MORRIS: I move to strike.</p> <p>11 Q. And please listen carefully to my</p> <p>12 question.</p> <p>13 Did you have any knowledge in early</p> <p>14 December 2020 that Highland made demand for</p> <p>15 payment under demand notes that were issued by</p> <p>16 you and certain of your affiliates?</p> <p>17 A. Same answer.</p> <p>18 Q. Were you aware or you were not</p> <p>19 aware?</p> <p>20 A. Well, no specific knowledge for the</p> <p>21 reasons articulated in the answer that you –</p> <p>22 you moved to strike.</p> <p>23 Q. Okay. So – so you had – you had</p> <p>24 no particularized knowledge of the demands in</p> <p>25 December 2020; correct?</p>	<p>Page 469</p> <p>1 DONDERO - 10/29/21</p> <p>2 A. Right.</p> <p>3 Q. Okay. And so it is fair to say that</p> <p>4 you never directed anybody to respond to these</p> <p>5 demands because you didn't have knowledge of</p> <p>6 them; correct?</p> <p>7 A. Right.</p> <p>8 Q. Okay. Do you know whether anybody</p> <p>9 responded on behalf – on your behalf or any of</p> <p>10 the corporate obligors' behalf to any of the</p> <p>11 demand letters that were – that you now know</p> <p>12 were sent in early December 2020?</p> <p>13 A. Well, yes. I mean, I know</p> <p>14 eventually. I don't know when, but I don't</p> <p>15 think anybody believes these – these HVIN</p> <p>16 notes are legitimate notes.</p> <p>17 I know the response was more around</p> <p>18 it being payments for the TerreStar regulatory</p> <p>19 obligations for all the things that Highland</p> <p>20 had mucked up in the TerreStar situation.</p> <p>21 Q. While you were president of that</p> <p>22 entity; right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And – and</p> <p>25 PricewaterhouseCoopers certainly doesn't think</p>
<p>Page 470</p> <p>1 DONDERO - 10/29/21</p> <p>2 these are frivolous obligations, does it?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 A. PricewaterhouseCoopers doesn't –</p> <p>6 Q. PricewaterhouseCoopers specifically</p> <p>7 included a disclosure of all of these</p> <p>8 promissory notes in the audited financial</p> <p>9 statements; correct?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. I mean, as they should have with the</p> <p>13 information they had at the time, but I think</p> <p>14 what has come out since then is that they – it</p> <p>15 was moneys that moved from Highland to HFAM for</p> <p>16 things that were caused by Highland and people,</p> <p>17 not me, not even Frank, I think, but other</p> <p>18 people assumed it was a note and made notes out</p> <p>19 of it. And that is what PricewaterhouseCoopers</p> <p>20 put into the financials, but I think what</p> <p>21 everybody acknowledges is that they were</p> <p>22 never – they were never notes.</p> <p>23 Q. Is there a document that you have</p> <p>24 ever seen in your life that supports what you</p> <p>25 just said?</p>	<p>Page 471</p> <p>1 DONDERO - 10/29/21</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. Yes.</p> <p>5 Q. Can you identify that document for</p> <p>6 me?</p> <p>7 A. Yeah. It is a – it is a settlement</p> <p>8 with the SEC in terms of what they said the</p> <p>9 breaches were, and why they were finding HFAM,</p> <p>10 the rationale that they had in the regulatory</p> <p>11 breaches and in the settlement, and all of the</p> <p>12 breaches in the settlement were things that</p> <p>13 Highland did, not that HFAM did.</p> <p>14 It was all valuation, it was all –</p> <p>15 it was all services that HFAM had contracted</p> <p>16 with Highland that were performed deficiently</p> <p>17 in the eyes of the SEC.</p> <p>18 Q. Okay. We will – we will get to</p> <p>19 that in more detail, but I just would like to</p> <p>20 know if you believe that any correspondence to</p> <p>21 the SEC specifically stated that Highland</p> <p>22 Capital Management, L.P. and not Highland</p> <p>23 Capital Management Fund Advisors, L.P. was</p> <p>24 responsible for the TerreStar valuation error.</p> <p>25 A. The SEC would not have parsed</p>

<p>Page 472</p> <p>1 DONDERO - 10/29/21</p> <p>2 between the different players in the entities.</p> <p>3 They would have said what they thought the</p> <p>4 breaches were overall in their letter, and what</p> <p>5 would govern the split is the shared services</p> <p>6 agreement and where were the employees that</p> <p>7 performed the activities that they cited.</p> <p>8 Q. Okay. We will get to that at a</p> <p>9 later time.</p> <p>10 All right. Let's go back to the</p> <p>11 oral agreements that you entered into with the</p> <p>12 Dugaboy trustee.</p> <p>13 MR. MORRIS: And let's start by</p> <p>14 putting back up Exhibit 31, Paragraph 82.</p> <p>15 MS. JEFFRIES: I'm sorry, can you</p> <p>16 repeat that?</p> <p>17 MR. MORRIS: Yes. Exhibit 31,</p> <p>18 Paragraph 82, yes.</p> <p>19 Q. And, again, Mr. Dondero, I think you</p> <p>20 have testified already that you believe</p> <p>21 Paragraph 82 generally describes the oral</p> <p>22 agreement that you entered into with the</p> <p>23 Dugaboy trustee with respect to the promissory</p> <p>24 notes that we've described; right?</p> <p>25 A. Yes.</p>	<p>Page 473</p> <p>1 DONDERO - 10/29/21</p> <p>2 Q. And – and it is – and that</p> <p>3 includes the promissory notes that you signed</p> <p>4 that Highland is suing on as well as the</p> <p>5 promissory notes that HCRE, HCMS, and NexPoint</p> <p>6 signed that Highland is suing on; correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Do you contend that the oral</p> <p>9 agreements that you entered into with the</p> <p>10 Dugaboy trustee modified the parties' rights</p> <p>11 under the original promissory notes?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. Modify, boy, sounds like a legal</p> <p>15 term. It said conditions by which they could</p> <p>16 be forgiven.</p> <p>17 Q. And there were no such conditions in</p> <p>18 the original notes; right?</p> <p>19 A. That is correct.</p> <p>20 Q. Okay. So I'm just asking you from</p> <p>21 your perspective whether the oral agreements</p> <p>22 that you entered into with the Dugaboy trustee</p> <p>23 were intended to modify the parties' rights and</p> <p>24 obligations under the original promissory</p> <p>25 notes.</p>
<p>Page 474</p> <p>1 DONDERO - 10/29/21</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. It was meant to condition the</p> <p>5 forgiveness.</p> <p>6 Q. Did it change –</p> <p>7 A. I would like to use those words</p> <p>8 versus modified the agreement.</p> <p>9 Q. Did it – did it alter the parties'</p> <p>10 rights and obligations?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 Q. I'm not trying to play a game with</p> <p>14 you. I just –</p> <p>15 MS. DEITSCH-PEREZ: That is exactly</p> <p>16 what you are doing. Why don't you just ask</p> <p>17 him –</p> <p>18 MR. MORRIS: Please stop talking.</p> <p>19 Please stop talking.</p> <p>20 Q. Mr. Dondero, is it fair to say that</p> <p>21 the promissory notes that are the subject of</p> <p>22 your oral agreements with the Dugaboy –</p> <p>23 Dugaboy trustee set forth the parties' rights</p> <p>24 and obligations thereunder, both the maker and</p> <p>25 the payee?</p>	<p>Page 475</p> <p>1 DONDERO - 10/29/21</p> <p>2 MS. DEITSCH-PEREZ: Can you read</p> <p>3 that back again.</p> <p>4 Q. Is it fair to say that the original</p> <p>5 promissory notes that are the subject of the</p> <p>6 oral agreements between you and the Dugaboy –</p> <p>7 withdrawn.</p> <p>8 Is it fair to say that the original</p> <p>9 promissory notes that Highland is suing under</p> <p>10 set forth the maker and the payees' rights and</p> <p>11 obligations under those notes?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form. Object to the form.</p> <p>14 A. Yeah, I – again, I want to – I</p> <p>15 want to avoid using the term "modification" or</p> <p>16 implying modification because, again, the notes</p> <p>17 are soft, and they really just talk about a</p> <p>18 rate and/or payment or amortizations, but</p> <p>19 they're soft notes. Something in the agreement</p> <p>20 that lays out the conditions for forgiveness</p> <p>21 aren't necessarily a modification of the note,</p> <p>22 and I'd like that to be –</p> <p>23 Q. Let me –</p> <p>24 A. – my testimony.</p> <p>25 Q. Let me ask it this way: Under each</p>

<p style="text-align: right;">Page 476</p> <p>1 DONDERO - 10/29/21</p> <p>2 of the demand notes, Highland as the payee had</p> <p>3 the unfettered right to demand payment at any</p> <p>4 time; correct? Did you understand that?</p> <p>5 MS. DEITSCH-PEREZ: At the time that</p> <p>6 the notes were first signed?</p> <p>7 MR. MORRIS: Yes, ma'am.</p> <p>8 A. Yeah. I mean, at the -- at the time</p> <p>9 that they were first put in place, but by the</p> <p>10 time the demand was made, they had already been</p> <p>11 subject to the conditions present or the</p> <p>12 conditions for forgiveness.</p> <p>13 Q. Okay. So this is exactly what I'm</p> <p>14 trying to get at. At the time the notes were</p> <p>15 signed, Highland had the right to make demand</p> <p>16 for payment at any time; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And when you entered into the oral</p> <p>19 agreements with the Dugaboy trustee, Highland's</p> <p>20 right to make a demand -- pick your word,</p> <p>21 modified, altered, amended, changed -- it</p> <p>22 was -- your oral agreement had an impact on</p> <p>23 Highland's rights under the promissory notes;</p> <p>24 correct?</p> <p>25 MS. DEITSCH-PEREZ: Object to form</p>	<p style="text-align: right;">Page 477</p> <p>1 DONDERO - 10/29/21</p> <p>2 of the question.</p> <p>3 Q. You can answer.</p> <p>4 A. The conditions subsequent -- the</p> <p>5 condition precedent -- precedence for</p> <p>6 forgiveness changed the ability for the demand</p> <p>7 notes to be demanded.</p> <p>8 Q. Okay. And -- and each of the oral</p> <p>9 agreements that you entered into with the</p> <p>10 Dugaboy trustee was related to the loans that</p> <p>11 were reflected in the promissory notes;</p> <p>12 correct?</p> <p>13 A. Well, it was related to the</p> <p>14 promissory notes themselves.</p> <p>15 Q. Correct. And the promissory notes</p> <p>16 reflect notes that were made from the payee to</p> <p>17 the maker; correct?</p> <p>18 A. Yeah. Most of them were roll-ups</p> <p>19 from prior.</p> <p>20 Q. No. Those are the term notes. I'm</p> <p>21 only talking about the demand notes.</p> <p>22 A. Okay.</p> <p>23 Q. Okay. So with respect to the demand</p> <p>24 notes, the oral agreements that you entered</p> <p>25 into with the Dugaboy trustee related to the</p>
<p style="text-align: right;">Page 478</p> <p>1 DONDERO - 10/29/21</p> <p>2 loans that were the subject of the promissory</p> <p>3 notes; correct?</p> <p>4 A. Yeah, I -- I -- I am just not</p> <p>5 understanding the nuance enough to answer that</p> <p>6 question.</p> <p>7 Q. Did the oral agreements relate to</p> <p>8 the loans that were the subject of the</p> <p>9 promissory notes?</p> <p>10 A. The oral agreements affected the</p> <p>11 term loans and the demand notes.</p> <p>12 Q. Okay.</p> <p>13 A. Does that answer your question?</p> <p>14 Q. And so -- and so is it fair to say</p> <p>15 that the oral agreements related to -- to</p> <p>16 the -- to the -- to the loans that were the</p> <p>17 subject of the notes?</p> <p>18 A. I don't know.</p> <p>19 Q. Okay.</p> <p>20 A. I'm not -- I'm not sure what you are</p> <p>21 asking, but I don't know the answer.</p> <p>22 Q. Okay. It is your --</p> <p>23 MS. DEITSCH-PEREZ: John, just</p> <p>24 how -- I just think the witness is lagging</p> <p>25 a little. So how much longer do you think</p>	<p style="text-align: right;">Page 479</p> <p>1 DONDERO - 10/29/21</p> <p>2 you have?</p> <p>3 MR. MORRIS: Oh, I've got probably</p> <p>4 four hours, so I don't expect to finish</p> <p>5 today. If Mr. Dondero -- if Mr. Dondero</p> <p>6 wants to stop --</p> <p>7 Q. Are you unable to continue right</p> <p>8 now, Mr. Dondero?</p> <p>9 A. Well, if we have four more hours, I</p> <p>10 would rather do it a day next -- next week, one</p> <p>11 afternoon.</p> <p>12 MR. MORRIS: Okay. Can we check our</p> <p>13 calendars before we go off the record?</p> <p>14 We have a deposition on Tuesday.</p> <p>15 I'm not available on Monday. I can make</p> <p>16 myself free on Wednesday, Thursday, or</p> <p>17 Friday. And I think that we should expect,</p> <p>18 you know, a substantial period of time,</p> <p>19 perhaps as long as a full day.</p> <p>20 I mean, with all due respect --</p> <p>21 MS. DEITSCH-PEREZ: How do you have</p> <p>22 a full day? You have already gone -- you</p> <p>23 have already gone more than half a day.</p> <p>24 MR. MORRIS: Yeah. And just -- just</p> <p>25 to be clear -- and I'm happy, you know,</p>

<p>Page 480</p> <p>1 DONDERO - 10/29/21</p> <p>2 to – to discuss this with you offline, but</p> <p>3 I didn't decide that Mr. Dondero would</p> <p>4 appear in his personal capacity and on</p> <p>5 behalf of three separate 30(b)(6)</p> <p>6 witnesses.</p> <p>7 If you had given me a different</p> <p>8 witness for each, I would have a total of</p> <p>9 28 hours. I don't expect to use anything</p> <p>10 remotely close to that time, but I am</p> <p>11 examining four witnesses here and I</p> <p>12 would – I would appreciate –</p> <p>13 MS. DEITSCH-PEREZ: But we also –</p> <p>14 MR. MORRIS: I would appreciate it.</p> <p>15 And, look, you can stop me at any time. If</p> <p>16 I haven't finished asking the questions</p> <p>17 that I believe I'm entitled to, I will, you</p> <p>18 know, take it to the judge. I'm just</p> <p>19 putting you on notice. I have – I'm on</p> <p>20 page 27 of a 57-page outline, so...</p> <p>21 MS. DEITSCH-PEREZ: Oh, geez.</p> <p>22 MR. MORRIS: Yeah, so I do have a</p> <p>23 fair amount more to cover. Okay?</p> <p>24 MS. DEITSCH-PEREZ: All right.</p> <p>25 MR. MORRIS: So Wednesday, Thursday,</p>	<p>Page 481</p> <p>1 DONDERO - 10/29/21</p> <p>2 or Friday, Mr. Dondero, I will make myself</p> <p>3 available at your convenience.</p> <p>4 THE WITNESS: I have all day board</p> <p>5 meetings on Wednesday.</p> <p>6 MR. MORRIS: Okay.</p> <p>7 THE WITNESS: I could do Thursday</p> <p>8 afternoon or I can do Friday afternoon.</p> <p>9 Hold on.</p> <p>10 MS. DEITSCH-PEREZ: Let me put this</p> <p>11 on mute and we will look at our calendars.</p> <p>12 MR. MORRIS: Thank you.</p> <p>13 VIDEOGRAPHER: Do you want to stay</p> <p>14 on the record?</p> <p>15 MR. MORRIS: Yes, please.</p> <p>16 THE WITNESS: Hello. All right. I</p> <p>17 can do Thursday afternoon for four hours.</p> <p>18 And if we need more time than that we can</p> <p>19 either do Friday afternoon or sometime</p> <p>20 the – the week after that, but I have – I</p> <p>21 have got –</p> <p>22 MR. MORRIS: Thank you very much.</p> <p>23 What time on Thursday works for you,</p> <p>24 sir?</p> <p>25 THE WITNESS: How about 1:00 o'clock</p>
<p>Page 482</p> <p>1 DONDERO - 10/29/21</p> <p>2 my time?</p> <p>3 MR. MORRIS: Okay. I appreciate it.</p> <p>4 Thank you very much. 1:00 o'clock Central,</p> <p>5 it is, next Thursday for the continuation</p> <p>6 of this.</p> <p>7 And hopefully I will finish that</p> <p>8 day, you know, if we can go without a lot</p> <p>9 of breaks and the rest of it. Hopefully I</p> <p>10 can finish that day. My intention is to do</p> <p>11 that. Okay?</p> <p>12 THE WITNESS: Perfect. Thank you.</p> <p>13 MS. DEITSCH-PEREZ: Can – can I get</p> <p>14 the rough?</p> <p>15 COURT REPORTER: Yes. Yes.</p> <p>16 MR. MORRIS: All right. We can go</p> <p>17 off the record.</p> <p>18 MS. DEITSCH-PEREZ: Thank you.</p> <p>19 COURT REPORTER: Thank you.</p> <p>20 VIDEOGRAPHER: Off the record, 3:53.</p> <p>21 (Deposition adjourned at 3:53 p.m.)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 483</p> <p>1 DONDERO - 10/29/21</p> <p>2 _____</p> <p>3 JAMES DONDERO</p> <p>4</p> <p>5 Subscribed and sworn to before me</p> <p>6 this day of 2021.</p> <p>7</p> <p>8 _____</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Page 484		Page 485	
1	DONDERO - 10/29/21	1	DONDERO - 10/29/21
2	C E R T I F I C A T E	2	NAME OF CASE: In re: Highland Capital
3		3	DATE OF DEPOSITION: October 29, 2021
4	I, SUSAN S. KLINGER, a certified shorthand	4	NAME OF WITNESS: James Dondero
5	reporter within and for the State of Texas, do	5	Reason Codes:
6	hereby certify:	6	1. To clarify the record.
7	That JAMES DONDERO, the witness whose	7	2. To conform to the facts.
8	deposition is hereinbefore set forth, was duly	8	3. To correct transcription errors.
9	sworn by me and that such deposition is a true	9	Page____Line____Reason_____
10	record of the testimony given by such witness.	10	From_____to_____
11	I further certify that I am not related to	11	Page____Line____Reason_____
12	any of the parties to this action by blood or	12	From_____to_____
13	marriage; and that I am in no way interested in	13	Page____Line____Reason_____
14	the outcome of this matter.	14	From_____to_____
15	IN WITNESS WHEREOF, I have hereunto set my	15	Page____Line____Reason_____
16	hand this 29th of October, 2021.	16	From_____to_____
17		17	Page____Line____Reason_____
18	_____	18	From_____to_____
19	Susan S. Klinger, RMR-CRR, CSR	19	Page____Line____Reason_____
20	Texas CSR# 6531	20	From_____to_____
21		21	Page____Line____Reason_____
22		22	From_____to_____
23		23	Page____Line____Reason_____
24		24	From_____to_____
25		25	

Index: \$100..84

<div>\$</div>	341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1 373:1 374:1 375:1 376:1 377:1 378:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1 388:1 389:1 390:1 391:1 392:1 393:1 394:1 395:1 396:1 397:1 398:1 399:1 400:1 401:1 402:1 403:1 404:1 405:1 406:1 407:1 408:1 409:1 410:1 411:1 412:1 413:1 414:1 415:1 416:1 417:1 418:1 419:1 420:1 421:1 422:1 423:1 424:1 425:1 426:1 427:1 428:1 429:1 430:1 431:1 432:1 433:1 434:1 435:1 436:1 437:1 438:1 439:1 440:1 441:1 442:1 443:1 444:1 445:1 446:1 447:1 448:1 449:1 450:1 451:1 452:1 453:1 454:1 455:1 456:1 457:1 458:1 459:1 460:1 461:1 462:1 463:1 464:1 465:1 466:1 467:1 468:1 469:1 470:1 471:1 472:1 473:1 474:1 475:1 476:1 477:1 478:1 479:1 480:1 481:1 482:1	<div>11:16 318:8,10</div> <div>11th 310:11 324:4 440:21</div> <div>12 298:13,16</div> <div>12-month 420:12</div> <div>12:40 381:8,9</div> <div>12:51 381:9</div> <div>13 357:19</div> <div>14 391:25</div> <div>15 380:10,11 421:17 431:8</div> <div>16 362:13,16,18,19 391:25</div> <div>17 377:21,22</div> <div>1994 291:10</div> <div>1:00 481:25 482:4</div> <div>1:13 398:19,20</div> <div>1:45 398:18</div> <div>1:48 398:20,22</div>	<div>2020 291:11 336:25 371:11,15,16 372:15 373:22 374:6,9,21 393:17 394:2,9,16 395:14 397:4,25 415:8 439:8,17 440:16,21 445:22 446:5 456:3,13,22 459:2,9,13,16 461:20 463:3 464:21,25 465:13 466:16 467:22 468:14,25 469:12</div> <div>2021 288:7 357:6 363:17</div> <div>21 337:2</div> <div>25 292:15,16 422:3, 18</div> <div>25-year 293:15</div> <div>26 292:16 422:3,19</div> <div>27 480:20</div> <div>28 480:9</div> <div>28th 435:4</div> <div>29 288:7</div> <div>2:13 398:15</div> <div>2:45 398:18</div> <div>2:56 454:16,17</div>	<div>449:6,13 450:11 451:3 453:23 455:8 461:21</div> <div>35 292:7 309:13</div> <div>37 323:18</div> <div>3:00 445:8</div> <div>3:19 454:17,19</div> <div>3:53 482:20,21</div> <div>3rd 439:7,17 440:6,16 464:3,5,21,25 466:16</div>
<div>0</div>			<div>4</div>	
<div>03 402:14</div>			<div>4 393:4 412:23 433:21 436:3 448:3,14,20,23 464:11,12,13,18</div>	
<div>1</div>	<div>1 288:4 408:12,15 433:21,23,24 466:8,9</div> <div>10 298:13,15 318:3 454:8</div> <div>10/29/21 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 325:1 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1 340:1</div>	<div>2 288:4 408:8,10,13, 21 436:3,4,5 464:10, 11,17</div> <div>2.1 409:13</div> <div>20 414:24 421:17</div> <div>2008 292:11 426:21 428:12 429:7</div> <div>2010 307:12</div> <div>2014 420:13 450:23</div> <div>2015 401:21 420:13 450:23</div> <div>2017 408:17,24 410:23 411:8 419:12 447:2,24 449:6,13 450:11 451:3 452:15 455:8 463:24</div> <div>2018 369:15 435:4 436:10 463:25</div> <div>2019 310:11 324:5 369:19 436:22 437:4, 17 463:25</div>	<div>3 348:11 433:14,15, 18,23 436:3,13 439:15 464:17 466:11</div> <div>30(b)(6) 345:2,10,13 353:14,18 354:7,13 363:3 370:21 376:4, 19 378:3 388:22 391:5 406:5 480:5</div> <div>30(b)(6)s 386:22 387:23</div> <div>30-year 451:10,13,17</div> <div>31 354:22,23 402:9, 13,23 472:14,17</div> <div>31st 408:16,24 410:23 419:12 447:2</div>	<div>5 298:11 414:6 439:15 445:25 455:11,14,18 464:18</div> <div>50 405:17 429:24</div> <div>57-page 480:20</div>
	<div>102 365:10</div> <div>10:21 288:8</div> <div>10:41 304:6,7</div> <div>10:47 304:7,9</div> <div>11:08 318:7,8</div>		<div>5</div>	<div>6 446:15,16 448:17, 19,22</div>
			<div>3</div>	<div>6</div>
				<div>8</div>
			<div>30(b)(6)s 386:22 387:23</div> <div>30-year 451:10,13,17</div> <div>31 354:22,23 402:9, 13,23 472:14,17</div> <div>31st 408:16,24 410:23 419:12 447:2</div>	<div>8 298:13,15</div> <div>80 390:4,7</div> <div>81 390:7 398:12</div> <div>82 357:20,25 390:7 398:12 403:4,6 422:8 423:10 472:14,18,21</div> <div>83 357:18,25 358:19</div> <div>84 359:12,13</div>

85 359:21	accounting 299:8, 19 300:4 319:25 324:15 334:12,19 382:23,24 383:9 397:13 410:16,20,25 411:12,15 416:5 418:2 459:6	299:3,21 300:7 301:3,9 344:12 452:23	ahead 437:22 441:21	anytime 371:16
86 359:23 360:13			air 423:20	Apologies 423:24
88 360:16 361:14 362:9		affiliated 297:16,24 314:22 315:8 325:3, 11,12,17 344:14 426:15	alleged 360:18	apologize 288:21 295:12 297:21 301:19 332:5 387:17 422:16 423:18 425:8, 18 445:3 448:21 455:4 464:10
9			allowed 435:7	
	accounts 319:9,12, 17,21 328:19,22 329:2,8	affiliates 344:22 413:12,13 426:22 467:21 468:16	alter 474:9	appearance 445:5
91 357:21	accrue 373:12		altered 476:21	appearances 288:17
94 291:8 365:2,10,15 370:8	accurate 343:13,15 357:15 364:24 379:10	affirmative 347:7,11, 14 348:8 357:21 358:6,20 359:3,19,24 360:12,25 361:13 362:9 365:11 366:7 370:15,22 375:21 376:9,17 378:11 379:23 380:4 389:13 390:9 391:7 398:11 406:20	alternative 291:18 361:6 452:2	appears 311:7 314:9
95 370:14,15,23 375:22	accurately 334:16		amassed 424:19 425:5 431:8	applied 403:15
96 370:24 375:22 378:10,17,20 379:14, 24	acknowledge 360:6		amend 320:19	applies 406:13
97 380:2	acknowledges 470:21	affixed 434:14 435:7	amended 346:18 355:2,20 356:3,5 357:14 362:15,24 364:23 379:9 389:3 402:24 476:21	apply 333:3 368:15 403:21 404:3,9 405:8,9
98 380:3	acting 340:15 371:24 372:12 396:25 442:25 462:25 465:10	afternoon 479:11 481:8,17,19	amortizations 475:18	appoint 301:23 302:14 311:3 323:14
9th 291:11 374:9		afloat 438:22	amount 293:23 294:12 295:17 298:5, 21 299:3 360:7 385:11 391:21 392:2, 6 393:6 407:22 408:17 417:20 419:16,22 422:13 430:6 435:3 460:18 480:23	appointed 301:12,14 302:18 321:6
A	activities 472:7	aggregate 293:23 295:16 297:25 419:8		approval 312:4
a.m. 288:8 304:7 318:8	actual 438:4	aggregating 411:10	amounts 333:5 344:21,23 367:12 372:6 377:13 382:6 392:21,25 420:3 424:21 427:4 431:9 448:6 450:17 460:19, 22	approve 312:11
ability 289:25 353:23 477:6	add 392:4	agree 400:8 446:25	and/or 334:14 338:6 364:2 365:18 412:2 475:18	approved 312:19 357:4
absolutely 375:15 458:18	additional 361:16 392:5 426:4	agreed 301:15 430:5	animation 396:22	approving 364:10
absolve 376:20	addressed 464:20	agreement 335:15, 17,24 336:5,6,9,15, 25 337:5,6 356:4 361:22 381:11,20,24 382:13,21 404:16,24 405:3 407:10,12 420:25 421:5 427:20 449:20 472:6,22 474:8 475:19 476:22	annoyed 391:22 392:19	approximate 408:17
accelerate 414:12	adjourn 290:4		annual 369:23 377:2 409:16,22 410:8 453:22 460:10	approximately 407:22 419:17
acceleration 377:17 412:23 414:13	adjourned 482:21	agreements 335:23 336:2 339:23 375:5 399:8,16 400:10,11, 23 401:4,16 403:7, 11,14,20 404:2,8 405:15 406:21 420:21 422:7,23 423:9 426:15,22 427:3 443:10,20 472:11 473:9,21 474:22 475:6 476:19 477:9,24 478:7,10,15		April 310:11 324:4 450:23
accepted 392:22	adjust 291:24 442:10			arbitrary 290:19
accepting 377:14	administered 416:11 417:21			area 292:18
access 425:25 431:15,25	administering 415:3			argue 393:13
accommodate 317:25	advance 352:25			argument 377:17 386:10 393:8,10 446:13 465:6,7
accordance 418:16, 23	advisor 308:11,12, 13,14			articulate 330:23
account 331:3 338:14 372:2	advisors 306:8 322:13 324:4,9 326:2,5 335:20,22 374:20 375:6 466:23 471:23			articulated 421:10 468:21
accountants 371:5 451:14	affected 478:10		answers 345:24 347:16,18 405:25 406:22 407:4 439:4	aspect 337:10 363:25 370:11 372:5 379:5
	affiliate 298:4,22			

Index: asserted..capacity

<p>asserted 358:20 366:13</p> <p>assertion 379:16 430:3 431:12</p> <p>asserts 359:24 360:16 365:16</p> <p>asset 291:19 298:16 308:10 376:25 412:20 421:14</p> <p>assets 292:4 299:9 330:16 334:14</p> <p>assigned 300:20</p> <p>assume 311:22 342:11 408:25 435:5 438:5</p> <p>assumed 470:18</p> <p>assuming 415:20</p> <p>attached 444:10,18</p> <p>attention 439:21</p> <p>attorney 320:18 321:8</p> <p>attorneys 429:7</p> <p>audit 320:2 334:19 411:3,16 416:6 426:10</p> <p>audited 299:10,25 327:18 340:9 412:11, 17 428:11 429:6 430:7,22 432:6,12 470:8</p> <p>auditor 426:14 427:9</p> <p>auditors 334:17 373:10 411:12 416:7 426:22 427:14 435:14 451:14 454:5</p> <p>audits 327:14 334:11 337:23</p> <p>August 356:4 420:13</p> <p>authoritative 310:20</p> <p>authority 301:22,23 302:13,14 310:5 317:9,13 451:5</p> <p>authorize 371:18 389:7 420:5 436:9</p>	<p>authorized 316:12, 18 319:8,11,16,20 328:18,21,25 329:7 363:15 371:25 391:19 434:21 438:2 463:11,19</p> <p>authorizing 364:10</p> <p>automated 438:3</p> <p>avoid 475:15</p> <p>aware 311:18 312:14 314:18,24 315:4 317:7,11 324:18,19, 24 325:5 327:6 330:10 334:4,6 340:10,12 346:16,17 351:13 352:10,19 357:9,11,12 358:5 359:18 364:14,18,21 365:20 367:20 368:4 369:22 370:6 372:12, 19,25 373:2 376:16 378:8 379:17 389:10 390:8 397:21 398:11 402:4 428:13,18 429:13 434:13 435:13,15 437:16,20 439:7 442:2,11 444:8,19,24 453:21 455:17 466:15 468:18,19</p> <p>awareness 320:6,8 321:4 322:10 324:12 325:8 332:16 333:4 344:10,18 352:13 366:19 373:17 401:22,23 456:25</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back 294:19 304:8 318:9 320:25 336:17 338:17 381:3,13 388:19 392:5,24 397:10,11 398:21 401:5 424:2,10 428:18 429:7 430:3 454:18 462:11 472:10,14 475:3</p> <p>background 324:15 357:4</p> <p>bad 405:7 416:16 417:8</p>	<p>balance 293:8 298:9 299:4,22 300:8 301:4,10 326:23 327:3,7 405:18 412:2 413:19 418:4</p> <p>balances 319:24</p> <p>ballpark 295:18</p> <p>bank 319:9,12,17,21 328:18,22,25 329:8 425:2,3</p> <p>bankruptcy 300:6, 15 302:21 315:24,25 366:13 413:14</p> <p>barred 358:21 359:15 360:2,17 365:17 370:16</p> <p>base 298:16</p> <p>based 324:16 398:5 467:25</p> <p>basic 416:19 459:5</p> <p>basis 294:5 344:9</p> <p>Bates 444:20,23</p> <p>begin 289:6,12,18</p> <p>beginning 288:4 355:25 357:5 363:16 465:12</p> <p>behalf 293:4 316:13, 19 349:12 353:23 354:8 363:16 364:11 371:12,24 372:7,13 386:17 387:5 388:12 389:8 394:8,16 396:25 404:10 408:24 409:7 411:17 415:4 418:13 419:20 436:10 437:14 443:2 449:12 451:6 455:7 456:18 462:17,25 463:18 464:20 465:10 469:9,10 480:5</p> <p>believes 469:15</p> <p>benefit 339:4 385:10</p> <p>benefiting 385:9</p> <p>benefits 384:20</p> <p>Berghman 445:7</p>	<p>betrayed 468:6</p> <p>big 421:10</p> <p>bigger 393:11</p> <p>billion 292:7</p> <p>binder 346:22 362:19 433:17</p> <p>binding 345:25</p> <p>bit 328:3 337:20 345:11 356:17 407:16</p> <p>blocked 378:13</p> <p>blurt 441:18</p> <p>board 425:2 431:21 481:4</p> <p>boilerplate 410:17 416:4</p> <p>bona 373:8 418:18, 19,20 419:23 421:19 457:10</p> <p>Bonds 363:23 364:4</p> <p>bonuses 322:9 424:24</p> <p>book 309:16</p> <p>booklet 448:25</p> <p>books 298:23 397:19</p> <p>borrow 295:7 420:5</p> <p>borrowed 295:3,8,13 420:2,11 437:3,17 448:6 450:15 452:14</p> <p>borrower 409:15</p> <p>bottom 310:6 323:23</p> <p>boy 336:17 383:13 416:16 417:8 422:9 473:14</p> <p>Boyce 301:15</p> <p>breach 391:15 392:2, 17</p> <p>breached 303:11 304:14 305:3,13,15, 22</p> <p>breaches 471:9,11, 12 472:4</p>	<p>break 317:23 318:4, 12 380:15,19,21 398:17 399:4 454:7, 23 455:6</p> <p>breaks 482:9</p> <p>Brian 324:14</p> <p>bring 395:6</p> <p>broad 366:5</p> <p>bucks 377:3,4 391:25 393:12 421:16 430:14</p> <p>building 338:18</p> <p>built 339:5</p> <p>bullet 416:8</p> <p>bunch 309:4</p> <p>burden 327:13</p> <p>business 291:14 308:5 323:4 330:15 342:6 384:17 385:7</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calculating 334:8</p> <p>calculation 393:2</p> <p>calendar 409:17 454:11</p> <p>calendars 479:13 481:11</p> <p>call 400:16 450:25 464:9</p> <p>called 306:7 322:12 329:18 341:8 345:9 357:21 389:15 402:2 462:10</p> <p>calls 349:24 350:3,9, 17,22 351:2</p> <p>capable 290:7 458:22</p> <p>capacities 325:3</p> <p>capacity 303:5 311:2,19 314:4,7 315:20 331:25 332:9 345:8,9,20,24 351:3 363:3 371:16 378:3 388:22 393:14</p>
---	---	--	--	--

399:25 406:5 480:4	chagrin 345:11	CLO 338:22 385:5	16 433:23 448:15	connection 294:17 353:7 426:9
Capital 288:6 290:23 294:10,15,21 295:4, 6,14,21,23 296:3,9 306:7 311:21 329:18 362:23 405:21 434:15 457:24 466:22 471:22,23	chance 331:3 351:6	close 434:12,18,19 436:6 480:10	complaints 356:5 407:6	consideration 360:3
captured 308:10 334:16 370:11	change 341:13,14 362:12 474:6	closed 360:3	complete 290:5 334:13 335:2 343:12, 15 357:14 364:23 379:10 405:16	considered 315:5 325:24
care 445:20	changed 299:17 476:21 477:6	closely 410:3 411:23	completely 391:3 397:7	consistent 407:6 419:24
carefully 372:11 468:11	characterize 333:12	collateral 413:16 417:7	completeness 327:24	consolidated 447:22
carried 298:22 299:4,22 300:8 301:3,10 327:4	characterizing 409:14	colleague 309:12	complex 401:25	contained 430:7
case 363:25 378:12 383:5	charged 299:2 333:21 364:9	collectively 451:3	complexity 363:24	contemporaneousl y 442:12
cases 460:19	charging 386:7	combination 310:5	compliance 327:14 371:8 393:3 411:14 462:12	contend 420:19 424:5 473:8
cash 383:18 384:13 421:11	chat 309:18 355:11	comfortable 390:13 391:10 398:23	compliant 319:25 334:11 418:2	contended 367:3
categorized 292:24	check 426:5 479:12	commenced 404:5, 11 405:6 433:10	compliantly 320:7	contents 461:3
category 361:9	checks 319:24	commencement 441:7,9 443:4,8,18 455:23	complicated 386:6	content 416:8
caused 470:16	chief 303:2 331:23, 25 332:9	comment 306:3 338:18 396:18 432:4	comport 303:6	contention 403:13, 19,25 423:17 458:14 460:21 463:15
caveat 427:17 441:21	choice 345:15	common 421:18	concede 433:5	contentious 461:2
ceased 305:11	circumstances 348:7 375:12,21 413:8	communicate 318:11 350:4	concern 333:17 358:6 359:2,18 360:25 361:13 362:8 365:21 370:21 390:9	context 335:11 400:10 460:21,22
Central 398:18 482:4	cited 472:7	communications 348:7 441:18 442:6	concerned 411:24 453:14	contingent 427:5
centralized 417:22	claim 360:17	comp 361:6,8,16 423:5	concerns 347:6 348:11	continuation 482:5
certificate 309:23 310:2,10 311:8 313:13 320:24 323:20 331:20 340:12,20 342:12 398:6 436:25	claims 358:21 359:14,25 365:16 370:16	companies 311:20 314:13 315:7 325:4, 12 344:14 361:21 412:21 421:19,22 431:19	concluding 328:11	continue 290:4,20 389:22 400:6 479:7
certificates 313:15 342:21	clarification 332:6 378:18 423:8	company 297:4 314:23 325:17 415:2	conclusion 452:13	contracted 471:15
cetera 320:2 334:5 367:13 389:24 392:12,15 393:2 433:2	clarify 337:20	compared 404:18	conclusions 305:18	control 297:2 307:6, 19,23 308:2 311:3 315:12,20 322:21 330:5,9 331:7 332:18 333:16 341:24 371:17 388:5 393:15 410:4 429:22 431:19
CFO 299:24 301:13, 23 302:15,18 303:6 311:12,20 313:7,10, 11,19 314:4 440:3	class 400:14,19 427:21	compel 395:7	condition 407:11 429:12,16 474:4 477:5	controlled 307:14 323:6 325:13 342:2 374:20 385:15
	clause 415:9	compensation 322:9 404:16,18 421:8,11,21 422:6,22 423:2,13 424:22 430:16 443:24 446:12	conditions 413:6,10 473:15,17 475:20 476:11,12 477:4	controls 320:2
	clauses 416:17	complaint 346:18 355:2,20 356:3 358:15 362:15,24 389:3 402:24 408:9,	confirm 401:8 462:3	convenience 481:3
	clean 304:11	complaints 346:18 355:2,20 356:3 358:15 362:15,24 389:3 402:24 408:9,	confirmed 462:10	conversation 457:12
	cleaner 423:6,7	Cliff 300:17	confusing 456:8	copy 355:18 356:21, 22,23 402:20 434:7

448:25	court 288:9 303:14, 21,24 355:25 366:13 374:24 381:17 395:7 396:5,8 482:15,19	23 481:4 482:8,10	deemed 426:16 427:3,12	356:20 359:4 361:25 365:4 366:8,17,22 367:6 369:7,25 373:5 376:10,18 379:11 380:13,20,25 381:6 382:15 383:17 384:4, 9,22 385:17,24 386:20 387:8,14,18, 21 388:15 390:14,19, 21 394:3,10,17 395:12,18,22 396:3, 9,21 397:5,9 399:11, 19,21 400:3 401:11, 18 402:13,18 405:11 406:14 409:9,18,25 410:9 411:20 415:14, 25 423:21 425:14,23 426:17 428:5,21,23 429:8 430:25 432:13 433:11,16,19 434:8, 17 438:10 441:3,16 444:8,16 445:24 447:11 448:19,24 449:22 452:10 453:7, 24 455:19 456:4,10, 14 457:6,16,19 460:13 461:16,23 462:6,21 463:6,22 464:13 465:14,19,25 467:4 470:3,10 471:2 473:12 474:2,11,15 475:2,12 476:5,25 478:23 479:21 480:13,21,24 481:10 482:13,18
Cornerstone 427:19	cover 480:23	days 349:19,20	deeply 453:12	delegate 317:19
corporate 312:7 320:18 321:7 323:7 330:8 342:3 345:21, 25 354:9 405:10 406:24 407:3,12 458:13 459:20 460:10 461:3,13 462:17 463:2,14,18 469:10	crazy 415:8	de 297:25 298:4,7,17 333:5,7,15 334:7,14 343:21,22 376:24 377:3 391:20 393:20 410:13 411:25 412:2 413:18 417:20 421:13 458:20	default 368:21 377:8 391:20 392:20 393:5 412:23	deluded 375:16
correct 290:24 295:4 301:11,24 306:8 313:3 316:5 322:13 325:14 328:15 335:15 337:17 339:24 342:24 351:19 374:6,9 389:18 398:2 402:15 404:12 405:14 412:9, 18 416:3 419:22 420:22 424:7 435:10 436:22 438:18 440:2, 17 442:3 447:6,10,19 449:7 450:6,11,13 451:7,10,22,23 452:4 456:3,13,22 457:5 458:9 459:10,13,16 465:24 468:25 469:6 470:9 473:6,19 476:4,16,24 477:12, 15,17 478:3	create 291:7 330:17, 19 413:15	dealing 372:22	defendant 362:23 404:17	demand 333:19 348:12,15 368:15 414:10 439:8,11 440:7,9,17,23 441:6, 11 442:2 443:3 444:4 445:24 447:22 464:24 465:12,23 466:17 467:2,9,19 468:14,15 469:11 476:2,3,10,15,20 477:6,21,23 478:11
correctly 320:7 335:12 404:7,22 411:2 414:15	created 307:9,15 322:24 330:11 339:6	Deborah 288:14,18 291:25 303:22 349:17 350:5 351:5 381:4 383:21 388:9 390:18 425:8 428:22 445:5	defendants 289:7	demand 333:19 348:12,15 368:15 414:10 439:8,11 440:7,9,17,23 441:6, 11 442:2 443:3 444:4 445:24 447:22 464:24 465:12,23 466:17 467:2,9,19 468:14,15 469:11 476:2,3,10,15,20 477:6,21,23 478:11
correspondence 471:20	creatures 365:5	debt 333:6 334:5 421:19 453:10,16	defense 347:11,14 358:6,20 359:3,19,24 360:12,25 361:6,13 362:9 365:21 366:2, 7,14 367:5 368:14 370:8,15,22 378:17, 20 379:16,18,23 389:20 391:7 406:20 459:21,25 460:8 461:3,8,9	demanded 445:23 446:6,10 477:7
cost 385:11	credit 291:17 411:4	debtholders 453:13	defenses 347:7 348:9 357:22 365:11 375:22 376:9,17 378:11 380:4 389:14 390:9 398:12 443:3 459:20 461:13	demanding 464:5
costs 333:7 334:5 337:21 338:5,8	creditors 452:24	debtor 367:22 374:21 428:8,10 443:15 444:15	deficiently 471:16	demands 468:24 469:5
counsel 288:19 289:6,8,9 355:18	crisis 292:12	debts 297:8,14 315:14,21 316:3,8 318:17,22 326:7,12, 17 327:10 328:7 332:20 333:2,23 340:5 343:6,18 344:6	definable 385:10	
counsel's 353:25 354:16	culpa 406:16	December 371:11, 15 373:21 374:12,17, 21,25 395:14 397:3, 25 439:7,17 440:6, 16,21 445:22 446:5 453:23 459:2,9,12,16 461:20,21 463:3 464:3,5,21,25 465:13 466:16 467:21 468:14,25 469:12	define 298:7,17 317:2 414:21	
counterparties 377:2	cure 377:15 392:21 393:6	decide 385:21 386:16 417:16 480:3	defined 317:18 411:11 419:12 426:23	
couple 300:14,18 349:19,20 350:2 421:16 428:15 445:3	curing 377:11,12	decided 297:3 386:8 420:24 451:12	defining 377:14	
	current 321:14,18 329:5,12 340:25 405:18	deciding 417:25	definition 416:23	
	curved 374:24	decision 387:5,12, 13,19 388:6,12 429:17	definitively 340:10	
	cut-and-paste 406:17	declared 368:20	Deutsch-perez 288:16,18 291:21 292:2 294:3,16,19,24 296:11,23 297:10 301:25 304:16 305:5, 25 309:15 311:5 315:16 317:21 318:5, 24 321:21 324:21 326:8,19 327:20 329:9 331:9 332:11 335:16 337:15 340:6 343:19 344:7 346:3 347:3,21,25 348:5,18 349:23 355:3,7,13	
	D	deed 416:15		
	DAF 339:2,5 385:2,5, 19,22 386:5,18 387:6 388:13			
	date 288:7 310:15 311:10 324:9 325:21 428:24			
	dated 408:16 439:17 464:21			
	dates 369:9,10			
	Dave 352:10			
	David 300:17			
	Davor 317:22,25 445:2			
	day 290:5 336:18 352:16 386:15 410:23 435:12 452:15 479:10,19,22,			

Index: demonstrate..end

demonstrate 424:14	disclose 426:14	304:1,11 305:1,9	464:1 465:1 466:1	E
department 382:23, 24 383:2 411:12 417:23	disclosed 412:15 426:21 427:9,13 430:24 432:11 433:3	306:1 307:1 308:1 309:1,20 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1,11 319:1 320:1 321:1 322:1 323:1 324:1 325:1 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1 340:1 341:1 342:1 343:1 344:1 345:1,7 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1,24 355:1,17 356:1,14 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1,10 373:1 374:1 375:1 376:1 377:1 378:1 379:1 380:1 381:1 382:1 383:1,22 384:1,6,7 385:1 386:1 387:1 388:1 389:1 390:1,5, 22 391:1 392:1 393:1 394:1 395:1,13 396:1 397:1 398:1,23 399:1 400:1,9 401:1,8 402:1,23 403:1 404:1,17 405:1 406:1,25 407:1 408:1 409:1 410:1 411:1 412:1 413:1 414:1 415:1 416:1 417:1 418:1 419:1 420:1 421:1 422:1 423:1 424:1,5 425:1,11 426:1,8 427:1 428:1 429:1 430:1 431:1 432:1 433:1 434:1 435:1 436:1 437:1 438:1 439:1 440:1 441:1,25 442:1 443:1 444:1,13,15 445:1 446:1 447:1 448:1 449:1 450:1 451:1 452:1 453:1 454:1,14 455:1 456:1 457:1 458:1 459:1 460:1 461:1 462:1 463:1	467:1 468:1 469:1 470:1 471:1 472:1,19 473:1 474:1,20 475:1 476:1 477:1 478:1 479:1,5,8 480:1,3 481:1,2 482:1 Dondero's 386:23 387:24 401:6 402:16 double-check 425:15 doubt 324:7 409:11 dozen 350:7 422:12 425:6 431:8 dozens 293:19,21 drafted 410:15 draw 452:12 driven 454:4 dropped 423:20 DSI 414:24 dual 321:23 due 297:24 316:14 327:4 344:13,21 358:22 359:15 360:2 366:15 371:20 372:5, 15 373:3 389:23 391:20 392:25 393:13,17,21 394:2 395:16 397:3 408:2 409:23 440:8 456:2, 12,21 457:4 458:8,20 460:11 461:14,21 462:4 463:5 479:20 Dugaboy 306:22 338:6 400:12,16,23 401:9,17 403:8,14,21 404:2 405:4 420:21 421:2,6 422:24 427:20 443:11,20 472:12,23 473:10,22 474:22,23 475:6 476:19 477:10,25 duly 288:12 duplicate 355:15 duties 297:6 303:2, 12 304:14 305:4,13, 15,23 328:12,14	
depend 383:4	disclosure 427:23 432:7,21,24 441:20 470:7			
deposed 352:9,11, 19	discovery 349:7,13 425:19,21 444:7,13			
deposition 288:5,20, 25 289:18,22 290:5 346:21 349:16 350:6, 16 351:8,11,14,18,21 352:4,7,14 353:2,3,8 363:7 376:19 386:23 399:5 400:4 408:12 444:19 454:24 479:14 482:21	discuss 306:5 401:3 441:10,13 480:2			
depth 334:13	discussing 442:19			
describe 291:13 332:24 410:12 456:17 461:12	discussion 444:3			
describes 403:6 472:21	disrupt 400:4			
describing 429:3 432:8	distinguish 457:21			
deserve 344:3	diversified 291:17			
detail 334:17 378:14 471:19	doctrine 365:17 370:17			
detailed 344:9	document 309:12 310:7,21 313:20 317:6 320:18 345:4, 16 355:24 356:9,16, 18 357:5,9,13 363:10,16,20 364:11, 15,19,22 366:12,20 378:6,9 379:6,8 380:17 381:10 388:20 389:2,5,8,11 402:8 435:8 447:18 466:11 470:23 471:5			
details 301:21 337:24 366:4	documentation 342:21 431:12,17,24			
di 333:12	documents 320:19 334:18 348:7 352:24 367:23 370:5 425:11, 22,24,25 438:14			
differentiate 333:24	dog 387:15,16			
dig 369:9	dollar 386:3			
direct 329:23 337:21 338:7 341:18 371:17	dollars 391:22 393:10			
directed 462:18 463:13,19 469:4	Dondero 288:1,5,11, 19,22 289:1,15 290:1 291:1,23 292:1,3 293:1 294:1 295:1,3 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1,17,20			
direction 463:21				
directly 306:21 307:3 314:5,8,13 322:19 330:3				
directors 431:22				
disagree 324:11				
disappeared 294:17				

Index: ensure..forgiven

<p>ensure 393:25</p> <p>enter 452:19</p> <p>entered 336:14 381:24 382:12 399:7, 15 400:22 401:16 403:11,14,20 404:25 405:4 407:10 472:11, 22 473:9,22 476:18 477:9,24</p> <p>entering 400:11</p> <p>enterprise 343:24 388:5</p> <p>entire 431:21</p> <p>entities 306:20 311:15,24 325:7,8 333:4,8 335:7,25 336:4,8,11,20 337:25 338:7 340:10 343:9 345:10 377:7 382:5, 25 384:19 385:16 406:6,24 407:13 423:3 426:15 458:21 472:2</p> <p>entities' 407:4</p> <p>entitled 414:7 480:17</p> <p>entity 291:3 306:7,11 311:4 322:12 329:18 330:9 331:7 333:6 338:2 341:7,10,16 342:9 383:5 385:20 413:19 429:21 469:22</p> <p>entity's 332:20</p> <p>entrepreneurial 382:5</p> <p>equal 360:7 448:7</p> <p>equity 385:6 452:24 453:5</p> <p>equity-ish 453:12</p> <p>equivalent 360:21</p> <p>error 406:17 471:24</p> <p>established 405:15</p> <p>estate 323:5 341:11 342:7 374:3 375:17, 18 385:8 392:12 468:6</p>	<p>estimate 290:21 296:8 350:14</p> <p>estoppel 347:17 359:15 370:17</p> <p>event 427:8</p> <p>eventually 368:11 469:14</p> <p>evidence 330:24 418:8</p> <p>exact 406:21</p> <p>EXAMINATION 289:13</p> <p>examining 480:11</p> <p>examples 425:6 431:9</p> <p>exceeded 293:25</p> <p>exchange 337:7 339:12</p> <p>execute 330:21</p> <p>executed 403:16,21 404:3,9 405:9 411:7 455:7</p> <p>executive 316:21 317:18 327:23 413:4, 9</p> <p>executives 325:6 413:20 424:25 425:2 431:10 432:19</p> <p>exercise 302:13</p> <p>exhibit 309:13 323:17 345:5,6 353:11,12 354:4,6, 22,23 357:20 362:13, 16 377:21,22 380:10, 11 402:9,23 408:8, 10,12,15 419:5,9 420:3,7 433:14,15, 18,23,24 436:4,5,13 437:12 439:15 445:25 446:7,15,16 447:18 448:3,8,14, 17,19,20,22 450:5,8, 17 456:7 464:10,11, 12,13,17,18 466:8,9, 11 472:14,17</p> <p>exhibits 433:21 436:3 464:17</p>	<p>existence 323:7 330:8 342:3</p> <p>exists 461:4</p> <p>expect 479:4,17 480:9</p> <p>expectation 392:15</p> <p>expectations 303:7</p> <p>expected 338:6 393:20</p> <p>expenses 316:23 338:16</p> <p>expert 292:18</p> <p>expertly 334:21</p> <p>experts 421:24</p> <p>extended 375:8</p> <p>extent 301:8 312:11 313:23 316:7 325:10 332:21 334:6 338:25 361:16 371:2 391:12, 13 396:17 427:13</p> <p>eyes 471:17</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>facility 411:4</p> <p>fact 368:4,7 376:18 387:24 421:9 430:21 463:4</p> <p>facts 348:8 358:5,25 359:17 360:11,24 361:12 362:8 365:20 366:6 368:9 370:6,20 375:12,20 376:8,15 377:11,16 379:17,22 380:3 390:9,15 391:6 398:10</p> <p>failed 318:20 319:5 328:5,12</p> <p>failure 360:2</p> <p>fair 290:20 293:2,14, 18,21,22 296:20 297:4 311:9 312:2,5 313:8,24 325:22 331:8 339:19 342:23 344:4 372:21 392:10 406:25 410:5 411:19</p>	<p>415:11,22 427:11 428:3 429:3 432:10 439:6 447:4,7 449:19 451:17,24 452:12 458:5 459:19 461:5 465:9,18 469:3 474:20 475:4,8 478:14 480:23</p> <p>fairly 409:14 422:12</p> <p>faith 360:20</p> <p>fallen 316:9</p> <p>falls 361:9,17</p> <p>familiar 297:7 306:6 315:14 318:17 322:12 329:18 341:7 433:8</p> <p>familiarize 297:14 298:21 315:21 316:2 318:22 326:6,17 327:10 328:7,13 332:19,25 344:5</p> <p>familiarizing 333:22 340:4 343:5</p> <p>family 314:12 321:8</p> <p>fast 381:3</p> <p>faster 361:19</p> <p>fault 295:12 441:24</p> <p>favor 296:3 447:2</p> <p>features 417:8</p> <p>fee 338:9 339:2</p> <p>feel 290:3</p> <p>feeling 289:3,17,21</p> <p>fees 308:11 317:3 386:7</p> <p>fide 373:8 418:18,19, 20 419:23 421:19 457:10</p> <p>figure 429:17</p> <p>file 363:15</p> <p>filed 346:17 355:20, 24 356:2,5 362:14 366:12 374:20 416:15</p> <p>filing 357:5 364:10</p>	<p>389:7</p> <p>finally 360:15</p> <p>financial 292:11 299:10,12 300:11 303:2 327:18 331:25 332:9 337:10 382:7 412:8,17 428:11 429:6,15 430:7,19,22 432:6,12 458:22 470:8</p> <p>financials 299:25 300:20 340:9 343:13, 15 411:3 412:11 430:11 431:5,7 432:17,24 433:4 470:20</p> <p>financing 451:25</p> <p>financings 453:2</p> <p>find 434:6</p> <p>finding 471:9</p> <p>fine 341:17 369:13 395:11</p> <p>finish 290:15 340:24 479:4 482:7,10</p> <p>finished 480:16</p> <p>firing 315:5 325:24</p> <p>firm 363:15</p> <p>firms 334:12 389:23</p> <p>fits 454:11</p> <p>flip 436:2</p> <p>focus 292:19 344:3 390:6 430:3</p> <p>focusing 334:8 357:25 413:21 422:16</p> <p>follow-up 388:8</p> <p>footnoted 430:12</p> <p>forcing 290:6</p> <p>forgave 422:4 430:15 432:11</p> <p>forgivable 404:20</p> <p>forgive 421:20 427:3</p> <p>forgiven 422:21</p>
---	--	---	---	---

<p>423:4,11 425:4 427:7,13,24 429:11 430:6,24 431:5 432:22,23,25 433:4 473:16</p> <p>forgiveness 361:7 429:4,20 430:4 431:9,22 440:13 443:24 446:13 465:6, 7 467:25 474:5 475:20 476:12 477:6</p> <p>forgiving 424:6,15 429:18 431:13</p> <p>form 294:4 296:24 297:11 306:2 311:6 315:17 318:25 321:22 324:22 326:9, 20 327:20 329:10 331:10 340:7 343:19 344:8 361:25 366:9, 18,23 367:7 370:2 373:6 376:11 379:12 384:23 385:18,25 388:16 390:15 399:12,22 401:12,19 405:12 407:21 409:10,19 410:2,10 411:21 415:15 416:2 426:18 428:6 429:9 431:2 434:17 438:11 441:4 447:12 449:23 452:11 453:8,25 455:20 456:15 457:7 459:18 460:14 461:17,24 462:7,22 463:7,23 465:15,20 466:2 467:4 470:4,11 471:3 473:13 474:3, 12 475:13 476:25</p> <p>formal 335:22,23 336:2 381:18 384:13</p> <p>formally 382:18</p> <p>formation 315:2</p> <p>formats 291:19</p> <p>found 291:6 392:18</p> <p>founded 290:23</p> <p>Frank 299:20 300:20 301:23 302:10 309:7 310:13 312:7 316:9 325:8 327:13 334:2, 22 335:10 336:18</p>	<p>338:4 340:8,14 343:10,11,16 397:24 398:7 415:3 436:16, 21 437:13,25 438:25 441:15 442:16 443:5 456:18 462:10 466:20 470:17</p> <p>Frank's 299:18 300:10,14,25 437:23 438:3</p> <p>frauds 327:25</p> <p>fraudulent 360:17, 19</p> <p>free 479:16</p> <p>Friday 479:17 481:2, 8,19</p> <p>friendly 413:13 417:21</p> <p>frivolous 470:2</p> <p>front 348:2 389:21</p> <p>frozen 302:3</p> <p>fulfill 318:21 319:5 328:5,12</p> <p>fulfilled 302:25</p> <p>full 431:19 479:19,22</p> <p>function 333:25 334:19</p> <p>functional 401:23</p> <p>functions 459:6</p> <p>fund 306:7 317:3,4 466:22 471:23</p> <p>funds 308:6,8,10,16 309:4 312:23 320:19, 20 327:16 336:13</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gained 385:11</p> <p>game 474:13</p> <p>gather 424:13</p> <p>gave 382:2 392:20 394:20 395:2,21 413:25 430:13 440:20</p>	<p>geez 480:21</p> <p>general 293:7 296:20,25 308:15 312:7 343:20 344:10, 17 364:7 376:24 403:7</p> <p>generalize 384:24</p> <p>generally 297:12 323:3,5 325:15 326:10,12 327:6 329:20 332:21,23,25 344:15 357:7 363:21 364:12,18 373:15 389:6 426:19 461:10 472:21</p> <p>give 331:3 334:25 337:24 342:22 366:6 369:8,10 382:2 394:12,19 395:14 397:16 405:16 440:25 451:12</p> <p>giving 399:25 422:22 423:13</p> <p>glad 351:22</p> <p>good 308:15 312:8 330:23 360:20 382:8 393:3 413:19 423:22</p> <p>govern 472:5</p> <p>grace 414:10 440:20, 25</p> <p>grade 291:17</p> <p>green 289:2</p> <p>Gregory 322:6</p> <p>grounds 312:18</p> <p>group 299:18 300:4, 11,14,21,25 316:10 319:25 334:2,23 335:10 336:19 338:5</p> <p>guarantee 417:8</p> <p>guaranteed 416:16</p> <p>guess 304:20 310:4 312:11 333:3 347:19 375:25 393:7 429:10 437:25 451:18 456:23,25 457:2,10, 11</p>	<p>gulf 382:10</p> <p>guys 346:23 432:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>haggled 418:6,9</p> <p>half 350:7 430:14 479:23</p> <p>half-hour 380:19,21 398:17</p> <p>hand 355:16</p> <p>handle 363:23,25 382:24</p> <p>Hang 355:7 402:18 428:21</p> <p>happy 317:25 406:3 479:25</p> <p>hard 355:18 356:22, 23 402:20 416:14 434:6 448:25 457:20</p> <p>Harvard 385:4</p> <p>hats 324:20</p> <p>HCMF 331:24 332:3, 10 339:19,25 457:21</p> <p>HCMFA 306:11,13, 19 307:4,6,8,14,19 308:2,17,18,22 309:2,8 310:10,14, 19,23 311:3 313:20 314:8,17 315:10,13, 20 316:13,18 317:9 318:15,22 320:22 321:9,16,20 322:7 333:10,17 336:23 339:22 404:10,11 405:13 457:9 465:24 466:3,4</p> <p>HCMFA's 308:5 311:12 315:14,21 316:3,8 318:17 319:9,12,17,20 333:12</p> <p>HCMLP 333:11,19 404:21</p> <p>HCMS 288:20 329:17,21,24 330:3, 5,11 331:5,14,18</p>	<p>332:6,9,18 335:11,14 336:16 337:6,13 338:14 339:11,19 340:3,16 341:3 353:14,17,23,24 362:14 363:14 364:11 365:10,15 366:12,25 367:14,25 369:15,18,23 370:21 371:12,17,19,24 372:13,21 375:14 379:19 385:22 403:22,23 405:20,25 433:8,10,24 434:15 435:2,9,18,23 436:10,22 437:3,14, 16 439:8,18,25 440:7,20 441:5,11 442:8 443:2,10,19 445:23 446:9 447:21 451:2 452:7 453:6 457:3,14,17,21 461:8 465:11 473:5</p> <p>HCMS' 340:5 363:3,7 443:2</p> <p>HCMS's 330:8,15 333:2,23 353:18 372:2</p> <p>HCRE 288:20 341:6, 8,16,19,24 342:2,16 343:7,13,15,18 354:8,9,14 378:4,21 381:11,22,23,25 382:13 383:3,5,11,15 384:7 385:9,21 386:3 404:3,5 405:19 406:2 447:21 448:2,5,11,16 449:13 450:9,15,21 451:2 452:7,17,18 453:2,5 455:7 456:5, 20 459:3,12 464:20 465:11 473:5</p> <p>HCRE's 342:6 344:6 377:23</p> <p>HCRE-TYPE 385:20</p> <p>head 292:2 306:4 311:25 317:14,16 325:19 340:23 369:17,21 376:8</p> <p>hear 289:15 303:14, 19 335:11 395:24 396:4,5,7,9,10,11,22</p>
---	---	---	---	--

<p>heard 303:16 352:20 462:9</p> <p>held 312:17,22 313:5, 18 314:12 320:14,16 325:11,17 465:2</p> <p>helped 339:16</p> <p>Hendrix 352:19</p> <p>hereunder 414:14</p> <p>Hey 380:13</p> <p>HFAM 335:20 470:15 471:9,13,15</p> <p>Highland 288:6 289:9 290:23 291:3, 7,14 292:5,15 293:16,20,25 294:10, 14,21 295:4,6,7,14, 21,23 296:3,9 297:3, 7,9,15,23 298:2,4,10, 20,22,25 299:4,22 300:8 301:3,9 302:12,18,24 303:12 304:14 305:4,12,14, 23 306:7 308:14 311:19,20 313:7,19 314:5,12,23 315:8 319:15 320:12 321:7, 8,15,19 322:8 325:2 327:5 329:5,13,18 335:15 336:11,16,24 337:7,8,12,22 338:2, 10,13 339:3,7,12,13, 16,17,20 341:2 344:13,22 356:2,5 358:15 360:6 362:23 367:2,11,15 371:7, 19,25 372:2,7,13,20 374:6,12,15 375:4,13 376:25 377:8,13,14 381:12,22,25 382:13, 14 383:12,15 384:8, 16 385:23 386:17 387:6 388:12 391:24 392:16 393:16 395:15 397:2 398:4, 5,9 400:14 404:5,11 405:21 408:4 412:2 415:5 419:11,22 420:2,12 421:14 422:4,20 423:12,18 424:6,15 426:21 429:6 430:7,10 431:13 432:11,24</p>	<p>433:10 434:15 435:3, 9,19 437:4,17 439:8 440:4,6,17,19,24 442:2,7 443:2,9,17, 18 445:23 446:6,10 447:2 448:6,12 450:10,16,22 452:3 453:4 456:17,18 457:24 458:4,16,23 460:23 461:4 462:3, 18 463:4,9,11,19,20 465:2 466:16,22 467:19 468:14 469:19 470:15,16 471:13,16,21,22 473:4,6 475:9 476:2, 15</p> <p>Highland's 291:9 298:16 301:13 302:14 303:6 311:12 313:6 327:18 346:18 349:12 354:25 358:14 362:15 370:25 389:3 402:24 403:17,22 412:8,16 426:2,10 432:17 435:14 441:11 476:19,23</p> <p>highlighted 306:4</p> <p>highly 334:10 391:22 417:18,19</p> <p>hired 297:3</p> <p>historic 322:5 431:5, 7</p> <p>historically 454:3</p> <p>history 422:3</p> <p>hold 294:16 329:6 355:14 423:18 481:9</p> <p>holders 400:14,19 427:21</p> <p>holding 392:5</p> <p>holds 314:22 315:7</p> <p>honorable 428:9</p> <p>hope 335:8 348:23 351:24 396:15 445:13</p> <p>hour 454:9,12</p> <p>hours 290:13 349:20,</p>	<p>21 350:19,20 479:4,9 480:9 481:17</p> <p>house 308:7 424:25</p> <p>housed 308:6</p> <p>hundred 391:21</p> <p>hundreds 293:15 312:12</p> <p>HVIN 469:15</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 300:21 331:15 410:15,19 416:7 435:21</p> <p>identified 310:14 324:2 348:16 353:24 459:19 461:2,7</p> <p>identifies 317:8</p> <p>identify 299:6 300:3 313:4,17 314:21 321:14,18 328:10 329:12 331:16 340:25 341:5 342:14 366:6 396:24 422:2, 18 471:5</p> <p>illiquid 361:18</p> <p>imagine 290:12 313:21 319:23 320:3 336:17,21 342:18 367:16,17 383:13</p> <p>impact 476:22</p> <p>imperfect 365:5</p> <p>implying 475:16</p> <p>important 423:15</p> <p>importantly 440:12</p> <p>improper 391:4</p> <p>in-person 350:9,12</p> <p>inaccuracy 378:18</p> <p>inaccurate 357:10 364:15,19 378:9 379:6 389:12</p> <p>inaudible 338:23</p> <p>Inc.'s 362:24</p>	<p>incentive 361:18</p> <p>incentives 361:17 421:21</p> <p>include 297:7 318:16 420:24 427:2 432:7</p> <p>included 354:13 412:8,12,16 414:18 415:13 430:10 432:17,19 470:7</p> <p>includes 473:3</p> <p>including 348:15 421:5 459:8,13,16</p> <p>inclusive 350:16</p> <p>income 322:3,4 343:24 386:19 387:7 388:14</p> <p>incorporated 366:2 392:24</p> <p>incumbency 309:23,25 310:10 311:8 313:13,14 320:23 323:19 331:19 340:12,20 342:11,20 398:6 436:25</p> <p>incur 316:12,18</p> <p>incurred 337:22</p> <p>indefinitely 373:12</p> <p>independent 385:19</p> <p>indirect 329:23 341:19</p> <p>indirectly 307:3 322:19 330:3</p> <p>individual 345:8 351:3</p> <p>industry 317:16 404:19,21</p> <p>inform 326:12 443:9</p> <p>information 344:20 378:13 414:25 424:14 427:18 470:13</p> <p>informed 443:2</p> <p>initial 419:15</p>	<p>inkling 413:14</p> <p>inordinate 392:6</p> <p>insignificant 424:20</p> <p>installment 369:24 409:16,22 453:22 456:2,12,21 458:8 460:11 461:20</p> <p>instruct 371:10 393:15 442:21 443:9 445:21 446:4 461:19</p> <p>instructed 371:24 372:13 397:2</p> <p>instruction 372:20 397:16</p> <p>instructions 395:15</p> <p>intended 325:20 418:19,20 473:23</p> <p>intent 339:9 377:5,6 414:12</p> <p>intention 418:14 482:10</p> <p>intentionally 304:19</p> <p>interacted 402:4</p> <p>intercompany 422:5,17,20 423:4,11</p> <p>interest 329:24 330:3 341:19,21 400:14 408:2 419:10 440:8 450:9 452:20 453:10</p> <p>interests 306:18 307:4 453:5</p> <p>interject 390:25</p> <p>interjecting 445:4</p> <p>interrelated 423:3</p> <p>interrogatory 426:5</p> <p>interrupt 422:14</p> <p>investment 291:16 330:22 401:9</p> <p>investments 330:21 339:17 342:7 361:19</p> <p>investor 292:21 338:24 385:4</p>
--	---	--	--	--

Index: investors..maker

investors 330:24 331:2		Lauren 320:9	limited 413:16 417:7 427:18	lot 291:22 297:23 311:14 416:3 452:14 467:23 482:8
invite 396:19	K	law 335:21 389:23	limits 317:12	loud 414:9
involved 325:9 328:2 339:17 355:21 373:16 386:12 406:10 459:5	keeping 432:2	lawsuit 403:17,22 404:4,11 433:9	lines 331:4	love 428:25
issue 306:5 332:22 335:7 360:8 399:9,17 400:24 405:5 410:22 423:15 424:10 433:9	key 377:16	lawsuits 399:9,17 400:25 405:5	liquidity 339:16	low 312:15
issued 467:20 468:15	kind 335:3,6 366:5 384:19 414:14 425:3, 11 432:21	lawyer 390:24 391:4	list 354:12 418:25 424:19,20 425:10,17, 18,20 426:4	lower 452:14,20
issues 333:7 348:16 386:9 468:2	kinds 327:25	lawyers 312:6 350:23,25 365:5 383:6 406:10	listed 354:18 419:5 420:3 425:16 430:17 440:9 445:25 446:6 450:5 466:17	lunch 380:19,21 398:17
item 430:16	Klos 300:17 352:10	layers 401:25	listen 372:11 468:11	Lynn 363:22 443:12, 17
J	knew 311:9 313:24 325:20 334:6 336:19 391:23 392:18 439:11 440:11,12,16 442:12,13,17 451:16 454:2	lays 475:20	listing 353:4	M
James 288:5,11 404:17	knowing 294:5 299:2,21 300:6 301:2 316:7	learn 367:14,25 440:5	lists 344:20	made 333:19 346:4 367:15,25 368:24 369:3,5,15,18 372:18 387:12,19 388:6,11 392:6 393:25 395:16 397:22 424:13,18 432:19 434:15 439:8 440:6,17 442:2 445:4 460:20 465:6 466:17 468:14 470:18 476:10 477:16
January 291:10 450:23	knowledge 300:24 301:6 312:4 323:8 340:13 341:22 349:2, 14 351:16,20 367:22 368:24 373:20 397:15 410:11 420:15 437:8,9 438:6 457:5 465:17,22 466:6 468:13,20,24 469:5	leave 288:24 370:13 380:9,25	litigation 289:9 356:7 414:19 441:7, 10 443:4,8,18 455:23	major- 307:2
JEFFRIES 472:15	knowledgeable 373:16	left 456:5	LLC 341:8,11	majority 307:4 330:2 341:21 400:13,18 427:21
Jim 302:3	Kristin 352:18	legal 383:2,7 410:18 473:14	loan 365:23,25 416:18 421:19 422:5, 18,20 423:11 430:4, 5,15,23 431:9 435:2, 18,24	make 288:15 305:17, 18 341:14 357:14 358:12 364:23 371:11,13,18,25 372:14,21 375:13 377:16 379:10 387:5 393:7,10,16 394:7,15 395:15 397:2 400:15 409:15 410:8 411:17 429:17 440:21 441:17 445:22 446:5, 9 455:12,25 456:11, 19,20 457:3 458:7, 11,15,17 460:10 461:5,20 462:3,10, 11,19 463:3,4,11,19 465:7 466:25 476:15, 20 479:15 481:2
John 291:21 317:21 335:17 347:21 369:8 376:18 380:13,14 386:20 387:22 390:21 395:23,24 396:3,6 397:5 406:16 445:3,9 457:19 478:23	L	legitimate 467:25 468:3 469:16	loaned 452:7	maker 295:22 296:2 414:9 429:21 437:14 467:3 474:24 475:10
Jonathan 322:6	L.P. 288:6 290:24 306:8 311:21 322:13 324:4 471:22,23	lengthy 356:18	loans 298:22 299:3, 22 300:7 301:3,9 344:12 371:3,9 404:20 406:11 420:17 422:17 423:4 424:7,16 427:3,12 429:4,11,18,19,24 430:23 431:5,13,21 432:7,11,15,17,18 448:12 450:21 452:19,20,22,23 477:10 478:2,8,11,16	
judge 363:22 443:12, 17 480:18	lag 301:25	lens 421:12	logical 377:6,9 391:18 413:20	
judgment 305:17	lagging 478:24	level 423:2	long 301:20 380:18 397:17,18 427:5 434:5 479:19	
July 420:13 428:18	Lamensdorf 322:6	levels 317:20 404:19	longer 478:25	
jumps 390:2	largely 291:16 308:6 370:10 397:20	liabilities 299:9 327:4	looked 340:19 396:23 431:4 439:10 455:11 464:2	
juncture 355:22	larger 460:22	liability 412:20		
June 436:10 437:17	largest 292:4	lieu 361:8,16 416:15		
justification 347:17 365:18 370:7 389:16, 20	late 288:22 336:25 356:4 374:6	life 427:19 470:24		
		likelihood 312:15		

477:17	matter 288:5 293:7 296:20 350:18 467:15	411:25 412:3 413:18 417:20 421:13 458:20	22 304:4 305:8 309:11,17 317:24 323:17 337:17 345:3 346:5,8 347:24 348:4 349:25 353:10 354:4, 21 355:5,9 359:6 369:12 372:8 374:4 375:19 376:22 377:20 380:12,16,24 381:4,15 383:19 386:25 387:16 388:3 390:3,17,20 391:3 393:22 396:7 397:7 398:15 401:5 402:9, 15 403:3 405:14 406:18 408:7,11 414:4 423:23,25 425:8,17 426:7 432:3 433:13,18,20 434:9, 24 436:13,19 437:11 439:14 444:12,22 445:12,20 446:2,14, 20 448:17,21 454:13 456:6 462:14 464:9, 15 466:7,10 468:10 472:13,17 474:18 476:7 479:3,12,24 480:14,22,25 481:6, 12,15,22 482:3,16	myriad 335:2
makers 451:7,25	matters 302:2	minus 298:7 343:22,23		<hr/> N <hr/>
makes 342:7	Mcgraner 342:18,23	minute 291:24		names 299:14 342:22 425:19,20 426:4
making 377:13 461:14 467:19	mea 406:16	minutes 318:3 370:5 387:10 454:8		Nancy 288:19 355:14
maliciously 304:20	means 384:2 395:20 458:4	misleading 390:25		narrow 313:16
man 383:22	meant 332:3 456:7 474:4	missed 425:9 456:24		nature 308:5 323:3 330:15 342:5
manage 293:4 421:21	mechanism 429:18	missing 389:20		nauseous 289:4
managed 308:9,16 325:13,18 327:16	meet 350:11	mistake 448:22		necessarily 413:7 475:21
management 288:6 290:24 292:5,18 294:11,22 295:4,14, 21,23 296:3,10 306:7 308:11 311:21 329:19 362:23 405:22 412:14 426:8, 13,23 431:21 434:15 457:24 458:4 466:22 471:22,23	meetings 350:16,22 351:2 481:5	mistaken 397:10		necessity 376:20
manager 291:19 293:2 309:3 421:14	members 425:2	Mitts 324:14		needed 372:18
managers 309:5 322:5 421:21	memorized 347:23	mixed 430:15		negotiate 417:13
manages 330:16	memory 356:13	modest 382:6 385:11		negotiated 418:6,10
March 435:3	mentally 289:24	modification 417:4 475:15,16,21		negotiating 411:23
Mark 306:15 383:11	mentioned 335:10 367:18	modified 357:14 364:22 379:9 473:10 474:8 476:21		negotiation 416:22 417:2,4
marked 345:4,6 353:12 354:6,23 362:16 377:22 380:11 402:23 408:10 433:15 446:16 464:12 466:9	met 349:17	modify 473:14,23		negotiations 417:2 451:22
market 339:5 384:16	Michael 322:6	moment 357:16,25 359:11 364:20 366:4, 10 375:23 379:25 422:2 461:18	mortgages 452:25	netting 392:9,15
marketed 330:18,20	mid 374:21	Monday 479:15	motion 374:20,24 395:7	news 428:14
marks 288:3	middle 374:24 404:15	monetize 361:18	mouth 302:5	Nexbank 431:18 432:6,18,20
masked 422:9	migration 364:6	money 292:18,25 293:4 295:3,7,8,13 296:9 331:4 336:24 337:7,16 360:7 382:11 391:21 419:22 420:2,6 421:19 448:6 450:16 452:7,14 460:22	move 322:11 372:8 374:4 375:19 386:24 393:22 432:3 433:7 440:15 462:14 468:10	Nexpoint 322:11,12, 15,18,21,23 323:6, 10,15 324:3,9,15 326:2,4 327:7,16 328:6,13 329:6,14 335:20 336:23 339:22 341:11 346:2, 17 353:17 381:23 382:8 383:6 384:16 385:8 389:8 391:24 393:15,25 394:8,16 395:16 396:25 397:3, 13,16,22,25 398:8 403:16,17 405:18,25 407:17,21,24 408:4, 9,24 409:8,24 410:5, 7 411:18 419:11,20, 21,25 420:5,11,16 439:12 447:21 451:2 452:7,13,18 453:2,5
material 332:22 344:2 365:22,24 368:4,7 369:2 412:7, 10 425:7 426:16,23 427:4,12 430:6,9 431:8,9	mince 393:9	moneys 337:19 470:15	moved 364:3 468:22 470:15	
Matt 342:18	mind 324:13 392:21	monitor 288:8	moving 302:5 468:7	
	mine 434:19	monthly 299:13	mucked 469:20	
	minimis 297:25 298:5,17 333:5,7,12, 15 334:7,14 343:21 376:25 377:3 391:21 393:20 410:13	months 428:15	multiple 311:15,23 320:4,5 324:20 325:5,6,22 375:7,8 406:10	
		MORRIS 288:14 289:5,14 291:25 294:18 295:2 303:18,	mute 395:22,23,24 396:2,14 481:11	
			mutual 308:6,7,9,16 317:3,4 336:12	

455:25 456:11,19 458:25 459:4,9,24,25 460:7 461:8 467:6,8 473:5 Nexpoint's 323:4 326:7,12,17,22 327:2,9,10 328:7,14, 18,22,25 329:8 345:20,24 346:14,20 347:2 348:8 349:3,12 388:22 389:2 412:3, 17 night 290:10 nods 292:2 nominal 386:4 non-payment 414:11 non-privileged 442:6 nonetheless 334:15 normal 316:22 note 306:5 349:3 368:16,18,19,22 369:23 371:12,21 372:2,16 397:3 407:17,21,25 408:16, 23 409:2,6 410:7,15 411:11,18 412:4,15 413:5,6,11,15,18,24 414:18 415:9,13 416:9,12,14,18,24 417:9,14,17 418:4, 17,18 419:4,8,20,23 420:6,20,25 421:5 434:3,14,22 435:14 438:18 440:14,23 446:25 447:5,8,16 448:8 449:12,15 450:3,18 451:12 455:6 457:10 467:2, 3,9 470:18 475:21 notebook 355:4 464:14 notes 293:12,15,19, 24 294:23 295:22 296:3,22 297:17,25 298:4,12 305:18 327:6 334:5 348:12, 15 353:5 356:6 358:7,8,9,16 359:10	360:8 364:7 367:4 368:15 373:8 376:24 377:12 391:13 399:9, 17 400:24 402:6 403:15,21 404:3,9 405:5,9,10,17 408:3 410:22 411:7 414:23, 25 415:4,18,21,23 416:21 417:12,20,21 418:9,13,16,19,20,25 419:5,12,16 427:24 433:9 439:9 440:9 442:3 443:10,19 445:23,24 446:11,18 447:17,23 448:7 449:4 450:4,10,25 451:3,6,9,16,19,21, 25 452:3,9 453:11, 19,21,22 455:3 457:9 461:22 462:4,18 463:2,12 464:6 465:2 466:17 467:20 468:15 469:16 470:8, 18,22 472:24 473:3, 5,11,18,25 474:21 475:5,9,11,16,19 476:2,6,14,23 477:7, 11,14,15,16,20,21,24 478:3,9,11,17 notice 353:14,18 354:7,13 363:7 367:3 375:4 377:8 414:11, 12,13 443:19 480:19 noticed 406:15 notices 345:2 353:3 414:13 464:24 notion 423:16 notwithstanding 375:12 379:16 November 375:4 nuance 478:5 number 298:14,21 299:3 362:17,18 408:8,12,13,15 464:4 numbers 392:20 425:3 numerous 365:25 368:25	<hr/> O <hr/> object 296:23 297:10 305:25 311:5 315:16 318:24 321:21 326:8, 19 329:9 331:9 340:6 344:7 366:8,17,22 367:6 369:25 373:5 376:10 379:11 384:2, 22 385:17,24 388:15 390:14 399:11,19,21, 22 401:11,18 405:11 409:9,18,25 410:9 411:20 415:14,25 426:17 429:8 430:25 432:13 438:10 441:3, 20 445:11 447:11 449:22 452:10 453:7, 24 455:19 456:4,14 457:6 460:13 461:16, 23 462:6,21 463:6,22 465:14,19,25 467:4 470:3,10 471:2 473:12 474:2,11 475:12,13 476:25 objected 312:18 objecting 409:12 445:6 objection 294:3 324:21 327:20 343:19 347:4 348:25 361:25 387:8 428:5 434:17 objections 346:4 348:19 353:25 354:17 383:21 obligation 371:20 426:13 obligations 294:14, 21 295:20 297:8,15, 23 315:15,22 316:3, 8,12,19 318:17 326:7,13,18 327:3,11 328:8,15 332:20 333:2,11,15,18,23 334:4,13 340:5 343:6,18,22 344:6,12 366:15 367:4 377:2 469:19 470:2 473:24 474:10,24 475:11 obligors 356:6	418:13,14 459:20 460:10 461:3,13 462:17 463:2,14,18 obligors' 458:13,14 469:10 obtained 312:3 374:16 435:18 448:12 450:22 obtaining 452:19 occurred 368:13 October 288:7 374:8 odd 422:25 odds 413:15 offense 432:4 officer 303:2 310:4 312:8 320:22 321:16 329:6,14 331:13,17, 25 332:9 340:16 341:3 342:15 officers 311:14 459:8,12,14,15 offline 480:2 Okada 306:15,22 omission 406:22 omitted 405:25 406:7,12 407:3,5 operating 299:13 316:20,23 343:23 opinion 447:14 oral 336:15 337:4 361:22 399:7,15 400:10,22 401:4,16 403:7,10,13,19,25 404:8 406:20 407:10 420:21 443:10,20 472:11,21 473:8,21 474:22 475:6 476:18, 22 477:8,24 478:7, 10,15 orchestrate 314:19, 25 orchestrated 327:14 order 374:13,16 ordinary 372:23	original 356:2 407:21 473:11,18,24 475:4,8 out-of-pocket 338:8,16 outline 480:20 outstanding 295:17 407:25 419:10 440:7 447:22 450:9 overcharged 391:24 overlay 343:20 overpayment 392:4 overstatement 460:17 owe 294:10 296:9 426:3 owed 297:8,15 375:14 419:11,22 450:10 460:23 owing 327:4 344:21 366:16 ownership 306:18 307:4,21,24 317:18 329:24 341:19 owns 306:13 322:18 <hr/> P <hr/> p.m. 381:9 398:20 454:17 482:21 pages 435:21 paid 338:8 373:13 392:16 418:21,22 460:20 462:11 paper 338:22 paragraph 357:17 358:19 359:12,13,23 360:13,16 361:14 362:9 365:2,15 370:8,14 378:20 379:14,24 390:4 403:4,6 404:14 407:14 409:13,20 412:23 414:6,7,17 421:10 422:8 423:10 455:11,14,18 472:14, 18,21
---	--	--	--	---

paragraphs 357:20 365:10 375:22 380:2 390:7,10,16 398:12 416:9	21 373:3,11 375:13 391:16,20 393:16,25 394:8,15 395:16 397:2 409:16,23 414:11 439:9 440:7, 21 442:3 453:22 456:2,12,19,21 457:4 458:8,17 460:11,17 461:5,14 464:5 468:15 475:18 476:3, 16	311:3 315:12,20 316:24 331:16 332:17 333:16 364:8 371:17,18 373:19 388:5 393:15 396:24 397:15 410:4 443:5 458:22	portfolio 308:10,16 309:3,5 322:5 361:21	459:22,25 460:8
paraphrase 394:23			portion 303:16 308:15 351:10	prepayments 365:23,25 367:13 369:2,15,19 378:15, 23
parsed 471:25			position 298:3 311:23 312:16 313:17 314:11,21 320:14 321:7 325:25 329:6 367:9 403:10 407:9	prepays 389:19 392:24,25
part 334:19 337:4 340:8 358:22 359:15 360:2,18 365:17 370:17 412:10 414:19 418:21 423:4 427:20 443:23 444:2 454:4 456:8 468:3	payments 369:24 373:18 377:13 410:8 445:22 446:5,10 454:3 458:15 460:16 461:21 462:3,19 463:4,11,20 469:18	personal 358:8,9 386:23 387:24 480:4	positions 297:5 312:22 315:6 316:21 320:17	presence 384:15
participate 289:24 350:21,25		personally 297:3 301:7 324:2 327:17 363:19 371:10 393:24 405:6 417:16		present 431:24 476:11
particularized 468:24	peak 292:3	personnel 372:7	possibly 423:3	presentation 431:4
parties 297:24 339:6 413:14 415:4 418:7	people 293:5 299:6, 8,15,18 300:10,13,14 303:18 342:19 407:9 416:10,11 421:12 424:23,24 426:15 458:22 459:7 470:16, 18	perspective 333:13 334:3 377:7 405:17 473:21	post 309:17	presentment 414:10
parties' 473:10,23 474:9,23		petition 311:10 324:9 325:21	pot 468:8	president 291:10,15 292:6,14 293:16,20, 25 297:6 298:19 302:12,23,24 303:13 304:15,22 305:2,11, 24 308:21 309:6 313:6 315:10 323:12 325:2 326:4 332:17 337:12 338:13 422:3, 19 423:12 469:21
partly 389:23 454:4		Phillips 364:5	potential 330:23	presidents 317:18
partner 361:6	people's 424:21	phone 350:2,9,17,22 351:2	practice 317:17 404:20 423:16,17 424:6,15,22 429:4 430:4 431:13	pretty 460:24
Partners 341:8,11 455:7 464:21	perceived 396:16	phrase 347:15	practices 411:13	previously 319:15 408:3
party 452:2,6	perceives 396:18	physically 289:23	precedence 477:5	Price 337:23
passed 338:5	percent 298:13,16	pick 476:20	precedent 429:12,16 477:5	Pricewaterhouseco opers 469:25 470:5, 6,19
passing 363:22	percentage 306:17	picked 335:8	precipitate 314:25	primarily 322:7 339:14 368:18,19 383:10 440:3
past 296:6 338:20	percentages 306:23	pile 362:13	premarked 309:13	principal 293:23 295:17 360:7 407:22 408:2 419:10,16 440:8 450:9
patient 372:10 383:20	Perfect 402:12 482:12	PJ 434:10	prepaid 366:15 391:13 406:11 418:22 461:9	prior 300:5,15 302:20 307:21 311:10 315:23 324:9 325:20 389:14 391:9 418:25 419:11,16 420:6 423:16,17 424:15 441:6,9 442:10 443:3,7 448:7 450:10 463:16 477:19
Patrick 301:15 383:11	performance 385:9 416:16	place 476:9	preparation 328:2 350:5 353:7	private 421:18,22
pay 336:23 337:6 338:7 366:14 367:4 369:23 383:15 384:7 385:22 393:5,12,18, 19 419:7	performed 471:16 472:7	plaintiff 289:8	prepare 349:16	
payee 295:24 422:21 466:25 474:25 476:2 477:16	period 293:16 307:18,25 330:8 367:20 401:13,15 420:13 421:17 440:20,25 479:18	plaintiff's 355:19 358:21 359:14,25 365:16 370:16	prepared 299:12 334:16 338:3 346:25 347:20 348:6,14,22 349:11 354:17 356:9 363:9 376:6	
payees' 475:10	periodic 454:3	plan 468:8	preparing 299:10 320:4 340:9 350:15 363:20	
paying 339:2	periods 304:21	play 474:13	prepay 389:17	
payment 337:13 371:11,19,25 372:14,	permissible 386:22 387:23	players 472:2	prepayment 366:21 367:5,15,22 368:2, 10,15,24 370:10 378:12,16,20 379:18	
	person 300:4,17,18	pleasure 381:4		
		point 288:25 290:22 309:8 318:2 320:15 377:19 406:19 427:7, 24 433:5 468:7		
		points 416:9		
		policy 317:6		

Index: privileged..relative

privileged 441:18	prudent 413:4	346:25 353:22 363:2, 9 375:25 376:3,6,21 378:2 388:21 390:22, 24 480:16	recall 292:8 298:24 302:17 303:4 310:25 312:20,25 313:21 320:14,21 326:15,16, 21,25 330:11 337:11, 18 355:18 356:2 357:3 363:6 368:23 371:22 373:21 374:11,15,19,23 375:3 407:20,24 409:5 410:6,21 424:9 425:10,21 437:3 446:3 465:4	redaction 428:12
problem 302:7 381:5 384:3 454:13	pulling 449:2	quick 317:23 380:14	receive 338:14 344:19 435:2	reestablish 419:8
proceed 289:22 291:25 398:25 454:20	purpose 298:8 377:10 401:3 404:15, 24 405:3,8,24 406:7, 23 407:3,9,11 421:4 422:5 423:12 430:22	quickly 344:25 345:15 377:12	received 322:3 337:13 383:16 435:9 464:4,24	refer 291:2 306:10 322:15 329:21 340:14 341:15 400:9
proceeds 348:20 349:3 420:16 435:23 448:11 450:21	purposes 416:6 422:21 424:25	quote 359:25 360:3 365:16 370:16 404:15	receiving 386:18 387:7 388:13 425:22 442:14	referenced 337:5
produced 367:23 425:13 428:10,17 444:6,12,17 445:18	pursuant 356:4	<hr/> R <hr/>	recess 304:7 318:8 381:9 398:20 454:17	referred 445:17
product 451:21	put 290:18 309:12,18 320:25 323:17 342:13 345:3 348:2 353:10 354:4,22 355:11 367:2 378:10 379:4 391:20 401:5 408:7 416:5,7,10 418:14 427:18 433:14,22 448:3 466:7 470:20 476:9 481:10	raise 382:10	recollect 442:16	referring 297:16 371:4
production 428:16	putting 343:12,14 354:24 355:10 443:18 472:14 480:19	rambling 387:10	recollection 309:14 310:17,21 311:17 324:2,17 338:12 349:6 352:25 355:24 356:8 386:2 411:6 420:10 435:17,22 440:2 442:14,19 443:16 444:14 448:5, 10 450:20 455:5 464:23 467:16,19	refine 330:22
profit 338:9	Pwc 412:16	rate 475:18	recommended 301:15	reflect 477:16
promissory 293:11, 12,15,19,24 294:23 295:22 296:2,22 408:3,16 411:18 413:11 419:5 434:3, 14,22 446:25 447:17 450:4,18 464:6 467:20 470:8 472:23 473:3,5,11,24 474:21 475:5,9 476:23 477:11,14,15 478:2,9	<hr/> Q <hr/>	rates 452:14,20	reconvene 289:3	reflected 294:22 295:21 313:20 327:3 334:15 420:6 477:11
proper 412:11	qualified 346:3	rationale 471:10	record 304:3,5,8,11, 25 318:6,9 330:20,25 338:18,22 339:4 381:7,14 382:10 384:15 385:5 397:12 398:19,21 399:24 424:3 454:16,18 479:13 481:14 482:17,20	refresh 309:14 310:17 323:25 339:18 349:5 352:25 355:23 356:8 439:12 455:5 464:23
properly 412:12	quarterly 299:11	read 293:8 296:21 358:2,10 361:2 381:15 397:9,10,12 404:22 409:2,11 410:3 413:6,10,24 414:9,15 415:24 424:2,3 430:21 447:5 449:15,18 455:13 475:2	records 298:23 330:17 367:8,12 397:14,19 431:20,25	refreshed 331:21 332:16 341:4 342:11, 17 420:14,18
proportionate 424:21	question 294:25 295:11,25 302:10 304:10,24 305:21 306:2 332:2 335:18 357:2 358:11 372:11 376:13,22 381:16 383:25 387:2,3 388:2,9,16 391:6,14 393:23 395:6,8,9 397:8 398:7 405:7 417:10 422:15,25 423:7 424:2 441:22 442:15 457:14,15 460:25 467:17 468:12 477:2 478:6, 13	reading 310:3 411:23	recover 358:16	regard 386:5 402:5 407:7 443:13,25
protections 413:17	questions 335:4,6	ready 454:20		regular 344:9 373:11 460:16
protest 414:11,12		real 323:5 341:11 342:7 385:8 391:14		regularly 299:17
provide 383:3 386:17 387:6 404:16 421:7		realize 468:6		regulatory 327:15 335:21 411:14 416:6 469:18 471:10
provided 337:8 339:11,16,20,21 353:2 385:12 386:4 429:7		reason 303:10 304:12 305:2,12 318:19 319:4 324:7, 10 328:4,11 391:18 410:25 411:14,15,16 413:20 434:20 436:7 437:6 447:6 452:5 453:3		regulatory-wise 418:3
providing 336:6 422:5		reasonable 392:10 404:18 411:19 413:24		reimbursement 338:15
provision 382:14 415:12,24 447:8 449:19 455:18		reasons 388:16 413:25 458:14 460:9 468:21		relate 361:20 375:21 376:8,16 379:23 380:3 398:11 478:7
provisions 440:14 449:25				related 323:5 366:6 382:4 390:11 398:4 415:4 477:10,13,25 478:15

Index: relevant..services

relevant 412:3	303:14,21,24 381:17 396:5,8 482:15,19	responsibility 299:2,20 300:6 301:2 315:13 319:6 326:6 327:9 332:19 333:22 340:4 343:2,5,17 364:9	row 318:3	424:25 431:21 432:19 452:25 453:13,16
reliance 370:25 372:5 463:8	reports 299:13	represent 351:3 353:16	RUKAVINA 445:2,14	sense 341:14 392:7 466:25
relied 372:22,23 375:13 383:9 393:4,5	representation 412:14 426:9,14,24	responsible 299:7,8 300:11 316:6 327:18, 21 471:24	rules 386:6,7	sentence 405:24
relocate 430:14	representative 345:21,25 354:9 378:3 388:22 400:12, 13 463:13	responsive 422:15	run 319:24 380:22	separate 331:3 333:24 385:20 457:9 480:5
relocation 424:24	reputation 334:12	rest 290:17 482:9	running 324:13	separately 430:17
rely 428:2,7,8	request 317:22 372:25 397:23	restate 457:14	S	September 355:25 356:10 357:6 374:6
relying 367:10 371:7 398:8 458:16	requests 349:8,13	restraining 374:13, 16	safe 445:13	series 455:3
remains 401:21	required 369:23 385:22 409:15 410:7 411:11 440:24 453:22 454:2	restroom 317:23 380:15,23	satisfaction 371:19 372:14	serve 291:9 309:7 323:15 325:21 331:24
remember 301:21 307:20,21 308:12,13 309:10 311:14 312:14 320:17 323:2 330:13 358:10 361:5, 8 368:6 375:9 389:14 407:18 409:12 410:25 411:5,22 441:14 443:14,15 464:4 465:8 467:22 468:5	resign 374:5,8	results 330:23	satisfied 373:18 429:13,16	served 302:24 303:13 304:15 305:24 310:18,23 311:19 313:6 320:22 321:15 324:8,25 325:3 329:13 331:13, 17,22 332:8 341:2 342:15
remembered 415:9	resolution 468:8	return 386:19 387:7 388:14 398:17	satisfy 333:18	server 426:2
remind 460:5	resolve 375:17	revenue 339:6,20,21	scope 300:7 301:9 316:7 317:8 387:22 405:15	service 333:6 334:5 343:22
remotely 480:10	respect 319:16 325:3 335:7 343:17 348:15, 20 353:24 464:25 472:23 477:23 479:20	review 344:12 346:20 351:7 354:12 389:5 447:13 450:2	screen 353:19 354:19,25 355:10 381:2 388:20 389:2 401:6 402:7,17,22 433:22,25 434:6	serviced 336:3
remuneration 337:10 382:8 384:13 385:14	respectful 351:25	reviewed 357:4 429:5	screw-up 370:25 371:2,4	services 294:11,22 295:4,7,9,14,21,23 296:4,10 329:19 331:20 332:4,14 335:15,17,22,23 336:2,5,7,9,10,15,24 337:7,13 338:4,6,15 339:3,9,12,15,22 340:11,20 362:24 367:11 371:6,7 372:7 375:5 381:11 382:14 383:3,9,16 384:8 385:12,23 386:2,4, 10,18 387:6 388:13 392:6 405:19,21 417:22 433:12 437:14 457:23,24,25 458:3,5,7,23 459:4, 15 460:6,7 466:3 467:6,13 471:15 472:5
render 388:12	respective 451:7	reviewing 355:19 363:20	scroll 434:9	
rendered 337:14 339:13 384:8 385:23	respond 441:11 442:8,22 469:4	ridiculous 377:17	sec 291:22 471:8,17, 21,25	
renegotiation 416:20	responded 441:6 465:11 469:9	rights 473:10,23 474:10,23 475:10 476:23	secrecy 427:23	
rep 299:25	responding 465:23	road 339:7	secretary 321:9	
repaying 418:15	respons 328:14	role 314:2 327:12 343:11 363:19	section 409:14 412:22,25	
repeat 294:24 295:25 302:10 387:3 391:8 394:5 399:13 441:22 472:16	response 305:21 425:21 444:3 469:17	roles 311:15 325:22 373:12	secured 416:13,15 452:25 453:13,16	
repetitive 335:9	responses 425:19	roll 337:25	Seery 352:6,8 373:23,24,25 375:16 391:23 392:9 414:24 439:17 468:6	
rephrase 295:10 399:13	responsibilities 299:15 318:16,21,23 328:6 398:4	roll-ups 477:18	Seery's 352:7	
report 314:5,8,13		rollup 407:25	sees 302:6	
reporter 288:9		room 309:18 355:11	selection 301:16	
		rough 482:14	send 467:2	
		roughly 375:2	senior 297:5 300:10, 14,17,18 312:8 316:20 325:5 327:23	

servicing 413:17	signatories 319:12 328:18	396:24 402:17 408:15 422:14 428:11 429:3 432:5 433:22 434:4,11 436:5 439:22 446:22 449:10 450:13 454:20 460:25 464:19 481:24	356:13 372:24,25 382:7 383:4 385:10, 14 438:6 456:24 467:15 468:20	states 359:13
serving 311:11 313:25	signatory 319:9,16, 20 328:22,25 329:7 438:2	sister 351:21 361:22 399:8,16,25 400:9,17 401:8 403:12 404:8, 25 431:18	specifically 312:14 316:5 317:7,12 326:14 344:20 349:4 364:17 372:17,18 373:7,15 382:18 393:18,19 412:15 430:12 434:23 435:16 437:5 470:6 471:21	statute 335:21
set 291:22 319:23 360:12 365:11 390:9 393:6 398:12 419:9 420:7 447:18 448:7 450:8,17 452:8 455:18 474:23 475:10	signature 310:4,6 323:23 408:20 418:15 434:11,13 435:7 436:5,8,14 437:23 438:4,5,9,14, 18 446:21,22 449:10	sit 300:24 301:7 304:13 318:20 319:4 357:8 445:10	specifics 369:16,20 375:25 410:12,13	stay 371:8 394:25 481:13
settlement 444:2 468:4 471:7,11,12	signatures 320:4	situation 469:20	speculating 300:9 430:20	steal 374:2 375:17
seven-figure 425:3	signed 293:11,14,18, 24 310:11 358:16 409:3,7,22 410:6,22 412:14 414:18 415:13,23 416:22 417:12 418:12 419:19,21 435:7,12 437:13 438:25 446:25 447:5,9 449:6,16,21 451:2 453:20 455:14 473:3, 6 476:6,15	sixth 397:6	speculative 427:6	step 297:21
seven-figure-plus 431:20	significance 316:25 317:2 460:18	skip 357:24 359:21	spend 334:7 413:21	steps 316:2 344:11 393:24 462:2 463:3
share 359:2,17 362:7 368:10,21	significant 382:9 422:13 425:6	Skyview 315:2	spent 350:15	stick 395:21
shared 335:14,17,22, 23 336:2,5,9,10,15, 24 339:3,22 367:11 371:7 375:5 381:11 383:8 392:5 417:22 458:23 472:5	significantly 391:14	small 372:6 386:4 392:2 393:10,20 430:18 460:19	split 322:9 472:5	Stinson 288:18 363:15 364:3,6
She'll 428:22	signing 413:5 437:24,25 438:22 439:5	soft 413:15 415:9 416:9,12,18,24 417:8,21 418:17 452:22,23 453:11,19 475:17,19	spreadsheet 368:11 369:10	Stoops 300:17
sheet 298:9 299:4,23 300:8 301:10 326:23 327:3,7 412:2 432:16	similar 336:7 339:21 342:12 378:11	sold 427:22	stack 353:2	stop 289:2 356:21 441:17 474:18,19 479:6 480:15
sheets 293:8 301:4 413:19	similarly 336:3	solidifying 411:10	staff 383:8 397:14	strap 291:17
shocked 412:19	simple 348:25 391:6 393:23 395:8,9 400:16 441:23 460:25	solvent 417:19	stamped 444:20,23	strategy 330:22
shoot 290:13	simultaneously 301:18 311:11 321:20 384:5	sophisticated 292:21,25 383:22 390:23	standard 404:20	stream 339:6,20,21 386:18 387:7 388:13
short 318:4 380:19, 21 386:11 387:10 397:17 398:16	single 353:9 414:18 428:11 458:21	sought 374:12 451:25	standing 312:8 393:3	strike 372:8 374:4 375:19 393:22 432:3 440:15 462:14 468:10,22
shorter 291:23	sir 295:11 323:20 324:24 335:18 345:17 346:11 377:24 381:11 387:19 394:14	sounds 295:5 422:10 473:14	standpoint 418:3 421:13	strong 324:15
show 330:23 347:22 406:4 415:17 429:15 431:20		source 334:18	start 365:13 424:4 472:13	struck 394:13 422:24
side 308:10 450:5		space 385:8	started 307:22 364:4	structural 335:3,6
sides 413:21		speak 303:23 399:3 453:12 454:22	starting 288:22	structure 307:21 308:12
sign 299:24 312:12 327:24 408:23 426:8, 13 434:22 436:9 449:12 451:5		speaker 303:25	stated 388:17 407:13 419:17 471:21	structured 314:10
sign-offs 320:5		speaking 301:18 303:15 383:21 384:5	statement 288:15 310:4 406:6,23 407:2 428:12 430:19	structuring 312:7 373:9
		specific 320:8 325:7 347:18 348:16	statements 299:10, 12 300:12 327:15,19, 24 338:4 366:5 412:8,17 429:6,15 430:8,22 432:7,12 470:9	struggle 316:15
				study 327:7 333:9
				studying 334:8
				stuff 327:15 383:14 416:17
				subject 332:2 347:3 348:18 353:25 354:16 361:21 403:16,22 404:4,10 416:20,22,25 417:3 420:20 429:20 440:13 443:10,19

Index: subordinated..trust

474:21 475:5 476:11 478:2,8,17	systems 397:14	471:24	304:14,22,25 305:6, 23 307:15,18,25 309:8 313:5,18,24 318:7 320:12,15 324:25 326:18 329:14 330:8 334:7 337:12 338:12 341:3 342:16 344:19,20,23 346:21 350:15 353:21,22 358:11 359:9 361:2,3 367:19 378:14 379:2 387:25 389:24 390:13 392:9 393:14 395:4,10 396:17 397:6 398:16 399:23 401:13,15 406:15 411:4 413:5, 9,21 415:6,23,24 416:20 417:3 418:12, 14 419:21 424:12 438:9 439:25 440:11 442:6,14,17,18,20,22 449:21 453:20 454:14,15 466:23 470:13 472:9 476:4, 5,8,10,14,16 479:18 480:10,15 481:18,23 482:2	453:4 454:9 479:5
subordinated 452:25 453:10,12	T	testified 288:12 351:14 352:16,22 370:9 379:15 441:25 462:8 472:20	today's 288:7 289:18 346:21 349:16 350:5 353:7	
subsequent 407:11 477:4	taking 398:7	testify 346:14 348:6, 14,22 349:11 354:8, 17	told 392:19 465:7	
subsequently 425:4	talk 303:8 304:21 305:18 328:3 366:3 414:20 475:17	testifying 431:7 444:14	top 306:3 311:25 325:19 340:23 369:17,21	
subsidiaries 415:3 417:19	talked 336:22 406:8 407:16 424:9	testimony 318:3,13 375:11 419:24 459:2 463:10 475:24	topic 347:6 348:11, 17 349:7	
substance 318:12 399:4 454:23	talking 337:16 359:10 383:17 390:5 401:14 421:24 429:23,24 441:14 442:16 443:14,15 456:5 474:18,19 477:21	Thedford 320:9,11 321:14 329:15	topics 346:9,10 353:16,17,24 354:13, 18 363:7 376:5 386:22	
substantial 479:18	tax 373:9 382:23,24 383:10 416:6	thereof 310:5 431:22	total 350:15 480:8	
substituted 419:4 447:16 450:3	tax-related 383:14	thereunder 474:24	track 330:17,19,25 338:18,22,23 339:4 382:9 384:15 385:5	
suggested 391:19	team 308:16 327:14 340:8,15 343:12,16 417:7	thing 324:13 336:12 362:3 389:25 426:2 436:24 452:17	tracking 299:9	
suggesting 396:18	telling 400:5 455:13	things 292:19 304:20 312:10,12 313:11 317:4 322:8 327:25 359:14,25 360:16 373:9 403:6 428:7 435:11 445:3 468:2 469:19 470:16 471:12	transcript 351:7 352:3,7	
suing 457:2 473:4,6 475:9	temporary 374:12, 16	thinking 340:17 375:16 402:3 459:3 461:18	transfer 360:17,19	
summarized 368:12	tension 373:22,24,25	thinks 351:25	transferred 360:6	
summarizing 360:19	term 368:15,18,19,22 369:22 371:3,12,20 372:2,16 397:3 407:17,21,25 410:22 427:6 446:17 447:23 448:8 449:4 450:25 451:3,6,9,10,13,17, 25 452:8 453:21 455:3,6 461:22 462:4,18 463:2 467:9 473:15 475:15 477:20 478:11	third-party 330:24	transition 363:22 392:11	
summary 313:15 459:18	termination 375:5	Thomas 445:7	travels 445:13	
superseded 419:4 447:17 450:4	terms 338:18 373:10 375:16 382:20 384:15 386:7 392:10 403:7 411:18 413:6, 10 416:19 417:13,17 418:16 432:22,25 452:8 471:8	thought 388:4 413:23 467:25 468:3, 7 472:3	treasurer 309:8 310:14,18,23 311:4, 12 313:12,19 314:7, 16 316:18 317:9 318:15,21 323:15 324:3,8,17 325:25 327:9 328:6,13 343:10,11 397:24 436:21 439:25 466:21,22 467:3	
supplemental 338:9	Terrestar 469:18,20	thousand 391:22	titles 311:25 312:3 325:6	
supplying 334:17		thousands 293:5	titled 362:22	
support 336:10 360:12 370:7 391:7 431:12		throw 290:9	titles 311:25 312:3 325:6	
supported 382:4		Thursday 479:16 480:25 481:7,17,23 482:5	today 290:13 291:3 294:10 295:17 296:10 298:10 300:25 301:7 303:9 304:21 305:22 308:19 309:2 314:17, 23 318:20 319:5 323:11 328:5 331:5 342:14 345:8,20,24 346:25 348:6 349:11 354:8 357:8 364:15 378:9 379:6 389:11 395:5 401:21 414:20, 22 415:12 445:5	
supports 470:24		time 288:7 290:3,19 293:19 298:2 301:20 302:23 303:12	today 290:13 291:3 294:10 295:17 296:10 298:10 300:25 301:7 303:9 304:21 305:22 308:19 309:2 314:17, 23 318:20 319:5 323:11 328:5 331:5 342:14 345:8,20,24 346:25 348:6 349:11 354:8 357:8 364:15 378:9 379:6 389:11 395:5 401:21 414:20, 22 415:12 445:5	
supposed 289:11 376:5 392:8 395:20 431:16 461:4			trouble 393:11 394:22	
surprise 410:24 438:17			true 453:15	
surprising 311:16			trued 392:13	
swear 288:9			trust 289:9 401:10	
switching 437:24				
sworn 288:12				
synergistic 384:20				

427:19 443:21	unified 384:19	walked 355:15	476:20
trustee 400:13,16,23 401:9,17,21,23 402:5 403:8,15,21 404:2 405:4 420:21 421:2,6 422:24 427:20 443:11 472:12,23 473:10,22 474:23 476:19 477:10,25	unit 384:20 400:19	wanted 288:17	words 291:14 297:21 343:25 430:13 474:7
trustees 402:2	universe 311:19	wanting 392:10	wore 324:20
trusts 306:23 401:25	unrelated 452:6	Waterhouse 301:12 302:18,25 303:5,11 304:13 305:3,13,22 309:7 310:13,18,24 311:4,11,18 312:17, 21 313:5,18,25 314:12,16,22 315:6 316:17 318:20 319:19 321:11,13 323:14 324:3,8,20 325:2,21,25 327:8 328:5,12,24 329:15 331:13 337:23 351:14,17 397:24 436:17,21 437:13 438:8 439:21,24 456:18 466:12,20	work 300:20 322:7 338:4 378:20 382:6 383:11 384:20 410:18 454:10
Tuesday 479:14	unsecured 416:18 451:19 453:16	Waterhouse's 317:8,12 318:16 351:7	worked 312:6 338:20 383:6 463:16
typical 317:16 421:25	up-and-comers 300:19	ways 335:2	working 320:18 375:17 384:19
typically 463:24	<hr/> V <hr/>	weather 288:23	works 378:17 481:23
<hr/> U <hr/>	valuation 471:14,24	Wednesday 479:16 480:25 481:5	world 331:17 371:18 396:25 397:15,22
UCC 416:15	values 376:25	week 290:5,17 351:17 367:2 462:9 479:10 481:20	wrap 454:12
Uh-huh 450:12	variety 291:19	well-capitalized 417:19	written 335:17 336:2, 4,9 381:19 382:21
unable 290:20 479:7	verbal 336:5 381:19, 20	whatsoever 325:8	wrong 402:8
unaudited 299:11	versa 308:14	Wick 364:5	<hr/> Y <hr/>
unaware 431:6 455:16	versus 438:4 474:8	window 423:20	Yankees 395:4,5
underpaid 404:18	vest 385:4	wires 320:5	year 292:8 299:11 334:11 369:4,24 371:21 373:3,14,19 375:14 391:16,17 395:17 409:17,23 410:8 421:16 422:3 426:10 453:23 457:4 458:16 460:12 461:15 462:5,20,23
understand 289:20, 25 293:8 296:21 301:8 335:18 345:7, 19,23 354:10 358:13, 17 370:24 378:4 383:25 386:13 388:25 390:22 404:7 409:7,21 415:12 426:12 435:8 447:9 449:20,25 457:13 476:4	videotape 396:17	withdrawn 307:2 315:11 321:12 324:23 331:23 340:2 341:6 343:3 367:24 403:12 405:2,7 475:7	year-end 372:15 458:8 463:5,12
understanding 299:21 300:7 301:2 306:17 316:7,11 330:14 343:17 347:10,13 403:5 410:6 419:3 426:20 440:24 478:5	view 334:14 411:24	withholding 414:25 432:5	years 291:18 292:15 298:10,11 300:5,15 302:20 311:10 320:17 322:25 330:12 336:22 415:10 422:12,19 463:16
understood 336:19 382:4,23	viewed 452:24 453:11	witnesses 480:6,11	yell 396:13,15
unfettered 476:3	viewing 398:3	word 327:22 366:21 395:3,4 415:21 458:3 460:17 462:15	yelled 396:19
	virtually 418:21		yelling 396:11
	voice 302:4		yells 396:2
	Volume 288:4		
	volunteer 375:24		
	<hr/> W <hr/>		
	wait 355:17		
	waiver 347:17 358:22 414:7		
	waives 414:10		
	waiving 317:3		
	walk 406:3		

EXHIBIT 99

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re: :
: Chapter 11
: Case No.
HIGHLAND CAPITAL MANAGEMENT, : 19-34054-sgj11
L.P. :
Debtor. :

:
HIGHLAND CAPITAL MANAGEMENT, :
L.P. :
:
Plaintiff, :
:
vs. : Adversary
: Proceeding No.
NEXPOINT ADVISORS, L.P., : 21-03005-sgj
JAMES DONDERO, NANCY DONDERO, :
AND THE DUGABOY INVESTMENT :
TRUST, :
:
Defendants. :

REMOTE VIDEO DEPOSITION OF JAMES DONDERO

VOLUME III

Thursday, November 4, 2021

JOB NO. 202288

<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 November 4, 2021</p> <p>5 1:17 p.m. CDT</p> <p>6</p> <p>7</p> <p>8 Remote video deposition of JAMES</p> <p>9 DONDERO taken in the above-entitled matter</p> <p>10 before Suzanne J. Stotz, a Certified Shorthand</p> <p>11 Reporter, Certified Realtime Reporter,</p> <p>12 Registered Professional Reporter, and Notary</p> <p>13 Public of the State of Texas, on Thursday,</p> <p>14 November 4, 2021, commencing at 1:17 p.m. CDT.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3 Attorneys for Highland Capital Management L.P.:</p> <p>4 (Via videoconference)</p> <p>5 PACHULSKI STANG ZIEHL & JONES</p> <p>6 780 Third Avenue</p> <p>7 New York, New York 10017</p> <p>8 BY: JOHN MORRIS, ESQ.</p> <p>9 HAYLEY WINOGRAD, ESQ.</p> <p>10</p> <p>11 Attorneys for NexPoint Advisors, L.P.:</p> <p>12 (Via videoconference)</p> <p>13 MUNSCH HARDT KOPF & HARR</p> <p>14 500 North Akard Street</p> <p>15 Dallas, Texas 75201</p> <p>16 BY: THOMAS BERGHMAN, ESQ.</p> <p>17</p> <p>18 Attorneys for James Dondero, Nancy Dondero,</p> <p>19 HCRE HCMS:</p> <p>20 (Via videoconference)</p> <p>21 STINSON</p> <p>22 3102 Oak Lawn Avenue</p> <p>23 Dallas, Texas 75219</p> <p>24 BY: DEBORAH DEITSCH-PEREZ, ESQ</p> <p>25 BY: MICHAEL AIGEN, ESQ.</p>
<p>Page 4</p> <p>1 A P P E A R A N C E S (Continued):</p> <p>2</p> <p>3 Attorneys for Nancy Dondero:</p> <p>4 (Via videoconference)</p> <p>5 GREENBERG TRAUERIG</p> <p>6 220 Ross Avenue</p> <p>7 Dallas, Texas 75201</p> <p>8</p> <p>9 BY: DANIEL ELMS, ESQ.</p> <p>10</p> <p>11 Attorneys for The Dugaboy Investment Trust:</p> <p>12 (Via videoconference)</p> <p>13 HELLER, DRAPER, HAYDEN, PATRICK & HORN</p> <p>14 650 Poydras Street</p> <p>15 New Orleans, Louisiana 70130</p> <p>16</p> <p>17 BY: DOUGLAS DRAPER, ESQ.</p> <p>18 MICHAEL LANDIS, ESQ.</p> <p>19</p> <p>20 Attorneys for The Litigation Trust:</p> <p>21 (Via videoconference)</p> <p>22 QUINN EMANUEL URQUHART & SULLIVAN</p> <p>23 51 Madison Avenue</p> <p>24 New York, New York 10010</p> <p>25</p> <p>BY: ROBERT LOIGMAN, ESQ.</p> <p>DEBORAH NEWMAN, ESQ.</p>	<p>Page 5</p> <p>1 A P P E A R A N C E S (Continued):</p> <p>2</p> <p>3 A L S O P R E S E N T:</p> <p>4 (Via Videoconference)</p> <p>5 JACOB ARVOLD, Videographer</p> <p>6</p> <p>7 (Via Videoconference)</p> <p>8 LA ASIA CANTY, Legal Assistant</p> <p>9 c/o Pachulski Stang Ziehl & Jones</p> <p>10</p> <p>11 (Via Videoconference)</p> <p>12 AARON LAWRENCE, Law Clerk</p> <p>13 c/o Quinn Emanuel Urquhart & Sullivan</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 INDEX</p> <p>2</p> <p>3 EXAMINATION Page No.</p> <p>4 JAMES DONDERO</p> <p>5 BY MR. MORRIS 10</p> <p>6</p> <p>7</p> <p>8 EXHIBITS</p> <p>9</p> <p>10 Exhibit</p> <p>11 Name Description Page No.</p> <p>12 Exhibit James Dondero Compensation 56</p> <p>13 68 and Benefits Statement,</p> <p>14 Bates stamped D-CNL003585</p> <p>15 Exhibit James Dondero Compensation 59</p> <p>16 50 and Benefits Statement,</p> <p>17 Bates stamped D-CNL003587</p> <p>18 Exhibit E-mail correspondence, Bates 95</p> <p>19 53 stamped D-CNL003768 through</p> <p>20 D-CNL003770</p> <p>21 Exhibit E-mail correspondence, Bates 107</p> <p>22 54 stamped D-CNL003777 through</p> <p>23 D-CNL003779</p> <p>24 Exhibit E-mail correspondence, Bates 116</p> <p>25 56 stamped D-CNL003763</p> <p>26 Exhibit Promissory Note, Bates 119</p> <p>27 57 stamped D-CNL003764 through</p> <p>28 D-CNL003765</p>	<p style="text-align: right;">Page 7</p> <p>1 INDEX (Continued)</p> <p>2</p> <p>3 EXHIBITS (Continued)</p> <p>4</p> <p>5 Exhibit</p> <p>6 Name Description Page No.</p> <p>7 Exhibit Highland Capital Management, 123</p> <p>8 34 L.P., Consolidated Financial</p> <p>9 Statements and Supplemental</p> <p>10 Information, dated December</p> <p>11 31, 2018, Bates stamped</p> <p>12 D-CNL000212 through</p> <p>13 D-CNL000257</p> <p>14 Exhibit Memorandum, dated 130</p> <p>15 59 October 23, 2020, Bates</p> <p>16 stamped HCMFAS 000025</p> <p>17 through HCMFAS 000031</p> <p>18 Exhibit Defendant James Dondero's 163</p> <p>19 24 Objections and Responses to</p> <p>20 Plaintiff's Requests for</p> <p>21 Admission, Interrogatories,</p> <p>22 and Requests for Production</p> <p>23 Exhibit Defendant NexPoint Advisors, 173</p> <p>24 27 L.P.'s Objections and</p> <p>25 Responses to Plaintiff's</p> <p>Requests for Admission,</p> <p>Interrogatories, and</p> <p>Requests for Production</p> <p>(Exhibits attached to transcript.)</p>
<p style="text-align: right;">Page 8</p> <p>1 JAMES DONDERO</p> <p>2 THE VIDEOGRAPHER: Good afternoon.</p> <p>3 My name is Jacob Arvold. I'm a certified</p> <p>4 legal videographer in association with</p> <p>5 TSG Reporting, Inc.</p> <p>6 Due to the severity of COVID-19 and</p> <p>7 following the practice of social</p> <p>8 distancing, I will not be in the same room</p> <p>9 with the witness; instead, I will record</p> <p>10 this video deposition remotely.</p> <p>11 The reporter, Suzanne Stotz, also</p> <p>12 will not be in the same room and will swear</p> <p>13 the witness remotely.</p> <p>14 Do all parties stipulate to the</p> <p>15 validity of video recording and remote</p> <p>16 swearing and that it will be admissible in</p> <p>17 the courtroom as if it had been taken</p> <p>18 following Rule 30 of the Federal Rules of</p> <p>19 Civil Procedures and the state's rules</p> <p>20 where this case is pending?</p> <p>21 MR. MORRIS: Yes.</p> <p>22 If anybody objects to that, please</p> <p>23 speak up.</p> <p>24 Nobody has spoken up. So everybody</p> <p>25 is deemed to have accepted that.</p>	<p style="text-align: right;">Page 9</p> <p>1 JAMES DONDERO</p> <p>2 THE VIDEOGRAPHER: Thank you.</p> <p>3 This is the start of Media Number 1,</p> <p>4 Volume II [sic] of the video-recorded</p> <p>5 deposition of James Dondero in the matter</p> <p>6 of In Re: Highland Capital Management,</p> <p>7 L.P., in the United States Bankruptcy Court</p> <p>8 for the Northern District of Texas.</p> <p>9 This deposition is being held</p> <p>10 remotely on November 4, 2021, at</p> <p>11 approximately 1:17 p.m.</p> <p>12 Counsel, please introduce</p> <p>13 yourselves.</p> <p>14 MR. MORRIS: Everybody is – is on</p> <p>15 here. I don't – we can't take the time to</p> <p>16 do that. I'm familiar with everybody on</p> <p>17 here. Everybody's appeared in this action</p> <p>18 before, and I'd like to proceed.</p> <p>19 THE VIDEOGRAPHER: All right. The</p> <p>20 appearances will be on the stenographic</p> <p>21 record.</p> <p>22 Will the court reporter please</p> <p>23 reswear the witness.</p> <p>24 THE COURT REPORTER: Could you raise</p> <p>25 your hand.</p>

<p>Page 10</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: (Complies with</p> <p>3 request.)</p> <p>4 JAMES DONDERO,</p> <p>5 having first been duly sworn, was examined and</p> <p>6 testified as follows:</p> <p>7 MS. DEITSCH-PEREZ: I only have one</p> <p>8 questions. Who's Robert Loigman?</p> <p>9 MR. LOIGMAN: I already stated for</p> <p>10 the record. I'm with Quinn Emanuel. I'm</p> <p>11 Debbie Newman's partner.</p> <p>12 MS. DEITSCH-PEREZ: Okay. Thank</p> <p>13 you.</p> <p>14 MR. MORRIS: Can we please put up on</p> <p>15 the screen the document that's been marked</p> <p>16 Exhibit 31.</p> <p>17 MS. CANTY: (Complies with request.)</p> <p>18 EXAMINATION</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Mr. Dondero, do you understand that</p> <p>21 this is a continuation of your deposition from</p> <p>22 Friday?</p> <p>23 A. Yes.</p> <p>24 Q. Have you spoken with anybody about</p> <p>25 your testimony since we concluded the</p>	<p>Page 11</p> <p>1 JAMES DONDERO</p> <p>2 deposition on Friday?</p> <p>3 A. No.</p> <p>4 Q. Nobody in the world?</p> <p>5 A. Just my attorney.</p> <p>6 Q. And did you speak with your attorney</p> <p>7 about the substance of the deposition on</p> <p>8 Friday? Just –</p> <p>9 MS. DEITSCH-PEREZ: I'm going to</p> <p>10 direct – I'm going to direct him not to</p> <p>11 answer.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Okay. I'm just asking you a</p> <p>14 yes-or-no question. I'm not asking for the</p> <p>15 substance of any communications.</p> <p>16 MS. DEITSCH-PEREZ: Well, you're –</p> <p>17 one, I'd have to talk to him to see what he</p> <p>18 thinks "substance" means.</p> <p>19 And to the extent that's</p> <p>20 substantive, you're actually getting at the</p> <p>21 content potentially of a discussion. So</p> <p>22 I'm going to direct him not to answer.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Are you going to follow your</p> <p>25 counsel's advice?</p>
<p>Page 12</p> <p>1 JAMES DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. How much time did you spend speaking</p> <p>4 with your attorney since the conclusion of the</p> <p>5 last deposition?</p> <p>6 A. 30 minutes, 40 minutes.</p> <p>7 Q. Are you aware that Alan Johnson</p> <p>8 testified in this case the other day?</p> <p>9 A. I don't know who Alan Johnson is.</p> <p>10 Uh, no.</p> <p>11 Q. Okay. Is it fair to say that you</p> <p>12 have no knowledge of Mr. Johnson's testimony?</p> <p>13 A. I have no knowledge of Mr. Johnson's</p> <p>14 testimony.</p> <p>15 Q. Are you aware that an expert was</p> <p>16 examined by me earlier in the week in</p> <p>17 connection with this case?</p> <p>18 A. I'm aware there's an expert. I'm</p> <p>19 not – I'm not aware that you've examined,</p> <p>20 deposed, or whatever you did with him.</p> <p>21 Q. Okay. When did you speak with your</p> <p>22 counsel for 30 minutes about – following last</p> <p>23 Friday's examination?</p> <p>24 A. About 40 minutes ago.</p> <p>25 Q. Okay.</p>	<p>Page 13</p> <p>1 JAMES DONDERO</p> <p>2 MR. MORRIS: Can we go to</p> <p>3 paragraph 82 of this document –</p> <p>4 Q. – Mr. Dondero, do you see that this</p> <p>5 is your answer to the Plaintiff's Amended</p> <p>6 Complaint.</p> <p>7 A. Yes.</p> <p>8 Q. And we looked at this the other day;</p> <p>9 do you remember that?</p> <p>10 A. Yes.</p> <p>11 MR. MORRIS: Can we can go to page–</p> <p>12 paragraph 82, please.</p> <p>13 MS. CANTY: (Complies with request.)</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. And I just want to table set to make</p> <p>16 sure we're on the same page.</p> <p>17 Paragraph 82 describes the</p> <p>18 agreements that you entered into with Dugaboy</p> <p>19 consuming the forgiveness of certain Promissory</p> <p>20 Notes subject to conditions subsequent.</p> <p>21 Is that a fair overarching overview</p> <p>22 of the nature of the agreements?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And for the rest of the</p> <p>25 deposition today, when I use the phrase</p>

<p>Page 14</p> <p>1 JAMES DONDERO</p> <p>2 "agreements," I'm going to mean the agreements</p> <p>3 that are referred to in paragraph 82; is that</p> <p>4 fair?</p> <p>5 A. Yes, generally. If I have any</p> <p>6 questions, I'll – I'll ask.</p> <p>7 Q. Thank you very much.</p> <p>8 The agreements covered each of the</p> <p>9 notes that are the subject of the lawsuits that</p> <p>10 Highland commenced against you, HCRE Services,</p> <p>11 and NexPoint; is that right?</p> <p>12 A. The – yes.</p> <p>13 Q. What are you looking at?</p> <p>14 A. Just this note sheet that covers all</p> <p>15 the notes.</p> <p>16 Q. Oh.</p> <p>17 MR. MORRIS: Deborah, I would demand</p> <p>18 that that sheet be produced immediately.</p> <p>19 MS. DEITSCH-PEREZ: Okay.</p> <p>20 MR. MORRIS: Okay. And I would ask</p> <p>21 him to put it away.</p> <p>22 MS. DEITSCH-PEREZ: No. He's a</p> <p>23 30(b)(6) witness. He's entitled to have a</p> <p>24 list of the notes. He sure he is.</p> <p>25 MR. MORRIS: I'm telling you now –</p>	<p>Page 15</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: I'm sorry to say</p> <p>3 to you.</p> <p>4 MR. MORRIS: I object. That is – I</p> <p>5 have never in my life seen a witness –</p> <p>6 MS. DEITSCH-PEREZ: I have had</p> <p>7 30(b)(6) witnesses with whole notebooks of</p> <p>8 information.</p> <p>9 MR. MORRIS: Okay. So let's just</p> <p>10 make sure the record is clear.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Please describe for me what's on</p> <p>13 that page.</p> <p>14 A. It's a listing of the Notes payable</p> <p>15 to Highland, what their original term and</p> <p>16 amount was, what the term is, and what the loan</p> <p>17 date was.</p> <p>18 Q. Okay. I'm going to ask the –</p> <p>19 MS. DEITSCH-PEREZ: No. I'm going</p> <p>20 to take a picture, and I'm going to send it</p> <p>21 to you, okay?</p> <p>22 MR. MORRIS: Okay. And what we're</p> <p>23 going to do right now is ask him to put it</p> <p>24 away, and I'm going to ask him questions</p> <p>25 solely in his capacity as an individual,</p>
<p>Page 16</p> <p>1 JAMES DONDERO</p> <p>2 okay?</p> <p>3 Please put it away.</p> <p>4 THE WITNESS: Isn't that what this</p> <p>5 deposition is, right? This deposition –</p> <p>6 MS. DEITSCH-PEREZ: Well, this</p> <p>7 deposition is both.</p> <p>8 We're going to take a break for a</p> <p>9 second. Let me think about that, but</p> <p>10 I'll –</p> <p>11 MR. MORRIS: I object. I really</p> <p>12 object. I really object. I'm glad that</p> <p>13 this is all on the record. I object.</p> <p>14 My request is that he put it away</p> <p>15 and answer questions in his capacity as an</p> <p>16 individual.</p> <p>17 I don't know why we need to take a</p> <p>18 break.</p> <p>19 MS. DEITSCH-PEREZ: Well, because</p> <p>20 I'm going to go take a picture of it and</p> <p>21 send it to you.</p> <p>22 MR. MORRIS: I don't want you to do</p> <p>23 that, though.</p> <p>24 MS. DEITSCH-PEREZ: Why don't you</p> <p>25 want – okay.</p>	<p>Page 17</p> <p>1 JAMES DONDERO</p> <p>2 MR. MORRIS: We can do that – we</p> <p>3 can do that when I ask him questions as a</p> <p>4 30(b)(6) witness.</p> <p>5 By the way, it's still</p> <p>6 inappropriate, but –</p> <p>7 MS. DEITSCH-PEREZ: No, it's not</p> <p>8 John.</p> <p>9 MR. MORRIS: Okay.</p> <p>10 MS. DEITSCH-PEREZ: It's just not.</p> <p>11 You can say it as much as you want. It</p> <p>12 doesn't make it inappropriate.</p> <p>13 And I am going to – I want to think</p> <p>14 for a minute about whether or not your</p> <p>15 request to have him not have it in front of</p> <p>16 him in his individual capacity is</p> <p>17 appropriate. And I'm not going to make a</p> <p>18 snap decision. I'm going to talk to my</p> <p>19 colleagues, and we'll be back on the record</p> <p>20 in a couple of minutes.</p> <p>21 MR. MORRIS: I object, but I can't</p> <p>22 stop you.</p> <p>23 MS. DEITSCH-PEREZ: Okay.</p> <p>24 THE VIDEOGRAPHER: Would you like to</p> <p>25 go off the video record, Counsel?</p>

<p style="text-align: right;">Page 18</p> <p>1 JAMES DONDERO</p> <p>2 MR. MORRIS: No, no, not at all.</p> <p>3 THE VIDEOGRAPHER: Okay.</p> <p>4 MR. MORRIS: And just keep the --</p> <p>5 keep the record going.</p> <p>6 THE VIDEOGRAPHER: Yep, will do.</p> <p>7 MR. MORRIS: And we're not off the</p> <p>8 record?</p> <p>9 THE VIDEOGRAPHER: Correct.</p> <p>10 THE COURT REPORTER: Correct.</p> <p>11 MS. DEITSCH-PEREZ: Okay. We're</p> <p>12 back on the record.</p> <p>13 THE VIDEOGRAPHER: We remained on</p> <p>14 the record.</p> <p>15 MS. DEITSCH-PEREZ: Okay. And this</p> <p>16 part -- this -- at this point Mr. Morris</p> <p>17 only taking Mr. Dondero's deposition in his</p> <p>18 personal capacity, not as a 30(b)(6)</p> <p>19 witness.</p> <p>20 If you want to resume taking his</p> <p>21 deposition as a 30(b)(6) witness, let me</p> <p>22 know; and I will tell him to get his list</p> <p>23 of notes.</p> <p>24 MR. MORRIS: So he doesn't have it</p> <p>25 in front of him right now?</p>	<p style="text-align: right;">Page 19</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: Correct.</p> <p>3 MS. DEITSCH-PEREZ: Correct, he does</p> <p>4 not.</p> <p>5 MR. MORRIS: Okay. I'm going to</p> <p>6 proceed; and I would ask, Deborah, that</p> <p>7 somebody from your office send that to me</p> <p>8 as soon as possible. I'm sure it's on an</p> <p>9 e-mail somewhere and all they have to do is</p> <p>10 hit send.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Mr. Dondero, let's continue.</p> <p>13 So you don't have that document in</p> <p>14 front of you right now?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. How many agreements did you</p> <p>17 enter into with Dugaboy?</p> <p>18 MS. DEITSCH-PEREZ: You mean with</p> <p>19 the Dugaboy trustee?</p> <p>20 We had an agreement that you were</p> <p>21 going to refer to these as the agreements</p> <p>22 with the Dugaboy trustee. So let's stay</p> <p>23 consistent.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Mr. Dondero, how many agreements did</p>
<p style="text-align: right;">Page 20</p> <p>1 JAMES DONDERO</p> <p>2 you enter into with Dugaboy trustee concerning</p> <p>3 Promissory Notes?</p> <p>4 A. Is your question -- is your</p> <p>5 questions how many Notes were entered into?</p> <p>6 Q. No. How many separate agreements</p> <p>7 did you enter into?</p> <p>8 A. The 2017, '18, and '19 agreements.</p> <p>9 Q. Okay. I didn't ask you what</p> <p>10 agreements. I asked how many agreements you</p> <p>11 entered into with the Dugaboy trustee.</p> <p>12 MS. DEITSCH-PEREZ: Asked and</p> <p>13 answered.</p> <p>14 THE WITNESS: Three major ones.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Are there any minor ones?</p> <p>17 A. Not that I can recall right now.</p> <p>18 Q. Okay. When did you enter into your</p> <p>19 first major agreement with the Dugaboy trustee?</p> <p>20 A. At the end of '17.</p> <p>21 Q. Meaning December 2017 or early 2018?</p> <p>22 A. Yes.</p> <p>23 Q. What Promissory Notes are the</p> <p>24 subject of the first major agreement that you</p> <p>25 entered into with the Dugaboy trust- -- with</p>	<p style="text-align: right;">Page 21</p> <p>1 JAMES DONDERO</p> <p>2 the Dugaboy trustee?</p> <p>3 A. I don't remember which ones</p> <p>4 specifically. I remember the amount was more</p> <p>5 substantial than subsequent years.</p> <p>6 Q. Do you know how many Promissory</p> <p>7 Notes were the subject of your first major</p> <p>8 agreement with the Dugaboy trustee?</p> <p>9 A. No.</p> <p>10 Q. Can you identify the maker of any</p> <p>11 Note that's subject to the first major</p> <p>12 agreement with the Dugaboy trustee?</p> <p>13 A. Not without my list or details.</p> <p>14 Q. Can you identify the principal</p> <p>15 amount of any Promissory Note that was subject</p> <p>16 to the first agreement that you entered into</p> <p>17 with the Dugaboy trustee?</p> <p>18 A. I know they were -- I know the gross</p> <p>19 amount. I know they were some of the term</p> <p>20 loans, but I don't know the specifics.</p> <p>21 Q. Can you tell me the aggregate</p> <p>22 amount -- withdrawn.</p> <p>23 Can you tell me the aggregate</p> <p>24 principal amount of the Notes that are the</p> <p>25 subject of your first agreement with the</p>

<p>Page 22</p> <p>1 JAMES DONDERO</p> <p>2 Dugaboy trustee?</p> <p>3 A. I – I believe it was 30 – 30 some</p> <p>4 odd million, 30 – I can't remember the</p> <p>5 principal and interest, but it's only 30 – 34,</p> <p>6 35, 36. It was in that range.</p> <p>7 Q. Did your first agreement with the –</p> <p>8 withdrawn.</p> <p>9 Can you identify the date of any of</p> <p>10 the Promissory Notes that are the subject of</p> <p>11 your first agreement with the Dugaboy trustee?</p> <p>12 A. No.</p> <p>13 Q. Can you tell me the year that any of</p> <p>14 the Promissory Notes that are the subject of</p> <p>15 the – withdrawn.</p> <p>16 Can you tell me the year that any of</p> <p>17 the Promissory Notes were entered into that are</p> <p>18 the subject of your first agreement with the</p> <p>19 Dugaboy trustee?</p> <p>20 MS. DEITSCH-PEREZ: Asked and</p> <p>21 answered.</p> <p>22 THE WITNESS: No, not off the top of</p> <p>23 my head.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. When did you – did – when did you</p>	<p>Page 23</p> <p>1 JAMES DONDERO</p> <p>2 enter into the second agreement with the</p> <p>3 Dugaboy trustee?</p> <p>4 Was that in December of 2018 or</p> <p>5 early 2019?</p> <p>6 A. Yes.</p> <p>7 Q. How many Notes are subject to your</p> <p>8 second agreement with the Dugaboy trustee?</p> <p>9 A. Less than the first, but I don't</p> <p>10 know how many.</p> <p>11 Q. You don't know the number of Notes</p> <p>12 that are the subject of your second agreement</p> <p>13 with the Dugaboy trustee; is that right?</p> <p>14 A. Correct.</p> <p>15 Q. Can you identify the maker of any</p> <p>16 Notes that are the subject of your second</p> <p>17 agreement with the Dugaboy trustee?</p> <p>18 A. No, I – I – no, I don't remember.</p> <p>19 Q. Okay. So as you sit here right now,</p> <p>20 you can't identify the maker of any of the</p> <p>21 Notes that are the subject of the second</p> <p>22 agreement with the Dugaboy trustee; is that</p> <p>23 right?</p> <p>24 A. Well, it would be one of the three</p> <p>25 parties or four parties here, me or NexPoint or</p>
<p>Page 24</p> <p>1 JAMES DONDERO</p> <p>2 whatever; but I don't remember –</p> <p>3 Q. Okay.</p> <p>4 A. – off the top of my head.</p> <p>5 Q. Off the top of your head, can you</p> <p>6 tell me the original principal amount of any</p> <p>7 Note that's subject to your second agreement</p> <p>8 with the Dugaboy trustee?</p> <p>9 A. No. I just – no.</p> <p>10 Q. Can you identify the date on which</p> <p>11 any of the Promissory Notes were executed that</p> <p>12 were the subject of your second agreement with</p> <p>13 the Dugaboy trustee?</p> <p>14 A. No.</p> <p>15 Q. Can you tell me the aggregate</p> <p>16 principal amount of the Notes that are the</p> <p>17 subject of your second agreement with the</p> <p>18 Dugaboy trustee?</p> <p>19 A. Yes. A fraction of the prior year.</p> <p>20 Less than ten million.</p> <p>21 Q. Can you be anymore precise than</p> <p>22 that?</p> <p>23 A. Approximately ten million, I think.</p> <p>24 Just under.</p> <p>25 Q. Okay. Did you enter into your third</p>	<p>Page 25</p> <p>1 JAMES DONDERO</p> <p>2 agreement with the Dugaboy trustee in December</p> <p>3 2019 or early 2020?</p> <p>4 A. Yes.</p> <p>5 Q. That's after the petition date; do I</p> <p>6 have that right?</p> <p>7 A. I – yes.</p> <p>8 Q. Did you do it before or after</p> <p>9 January 9, 2020?</p> <p>10 A. Before, I believe.</p> <p>11 Q. So while you were still in control</p> <p>12 of Highland but after the petition date, you</p> <p>13 entered into your third agreement with the</p> <p>14 Dugaboy trustee concerning Promissory Notes.</p> <p>15 Do I have that right?</p> <p>16 A. Yes.</p> <p>17 Q. Did you ever inform the bankruptcy</p> <p>18 court of this agreement?</p> <p>19 A. No.</p> <p>20 Q. Did you ever inform the independent</p> <p>21 directors of this agreement that you entered</p> <p>22 into after the petition date?</p> <p>23 A. No.</p> <p>24 Q. Can you tell me which notes are the</p> <p>25 subject of your third agreement with the</p>

<p>Page 26</p> <p>1 JAMES DONDERO</p> <p>2 Dugaboy trustee?</p> <p>3 A. No.</p> <p>4 Q. Can you identify the maker on any</p> <p>5 Note that's the subject of your agreement that</p> <p>6 you entered into after the petition date with</p> <p>7 the Dugaboy trustee?</p> <p>8 A. Not off the top of my head.</p> <p>9 MS. DEITSCH-PEREZ: I mean, John, if</p> <p>10 you would let him look at his list, he</p> <p>11 could tell you.</p> <p>12 But if you insist on making this a</p> <p>13 memory test of 18 or so different things or</p> <p>14 however many there are, 13, 14, then this</p> <p>15 is – it's your deposition. But if you</p> <p>16 want more specific details, he could look</p> <p>17 at the list.</p> <p>18 MR. MORRIS: Okay. That's not even</p> <p>19 an objection let alone a speaking</p> <p>20 objection.</p> <p>21 It is my deposition –</p> <p>22 MS. DEITSCH-PEREZ: No.</p> <p>23 MR. MORRIS: It is my deposition,</p> <p>24 and I would appreciate your not making</p> <p>25 gratuitous comments.</p>	<p>Page 27</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Mr. Dondero, can you tell me the</p> <p>4 aggregate value of the Notes that are the</p> <p>5 subject of the third agreement that you entered</p> <p>6 into with the Dugaboy trustee after the</p> <p>7 petition date?</p> <p>8 A. I believe it was about a million</p> <p>9 bucks.</p> <p>10 Q. And who were the makers of the Notes</p> <p>11 that are the subject of the agreement with the</p> <p>12 Dugaboy trustee that you entered into after the</p> <p>13 petition date?</p> <p>14 A. I don't know.</p> <p>15 Q. Without the sheet that you looked at</p> <p>16 earlier, you have no ability to tell me which</p> <p>17 notes were the subject of which agreement that</p> <p>18 you entered into with the Dugaboy trustee,</p> <p>19 correct?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: If I'm not certain off</p> <p>23 the top of my head I can remember</p> <p>24 accurately, I don't want to speculate.</p> <p>25</p>
<p>Page 28</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. All right. I don't want you to</p> <p>4 speculate either. So I'm going to ask you just</p> <p>5 broad follow-up questions.</p> <p>6 Can you identify any Promissory Note</p> <p>7 that is the subject of any specific agreement</p> <p>8 that you ever entered into with the Dugaboy</p> <p>9 trustee without looking at the list?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form. He's already done that to some</p> <p>12 degree.</p> <p>13 THE WITNESS: I believe it covered</p> <p>14 virtually all of them. So I don't remember</p> <p>15 which ones specifically in each year.</p> <p>16 Generally, it was, I believe, the</p> <p>17 ones incurred in that year; but I don't</p> <p>18 remember which entities. But again, the</p> <p>19 ultimate result being that the term loans,</p> <p>20 the demand notes, the things incurred, the</p> <p>21 things outstanding were part of the</p> <p>22 agreement.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Sir, you never wrote down a list of</p> <p>25 the notes that are the subject of the</p>	<p>Page 29</p> <p>1 JAMES DONDERO</p> <p>2 agreements, correct?</p> <p>3 A. Correct.</p> <p>4 Q. You never asked anybody to make a</p> <p>5 list of the notes that were the subject of each</p> <p>6 of the agreements, correct?</p> <p>7 A. Correct.</p> <p>8 Q. You're not aware of any document</p> <p>9 that was created prior to the commencement of</p> <p>10 these lawsuits that identifies the Notes that</p> <p>11 are the subject of the agreements, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Other than the Promissory Notes that</p> <p>14 are the subject of this lawsuit – withdrawn.</p> <p>15 Other than the Promissory Notes that</p> <p>16 are the subject of these lawsuits, are you</p> <p>17 aware of any other doc- – Promissory Notes</p> <p>18 that are the subject of an agreement with the</p> <p>19 Dugaboy trustee?</p> <p>20 A. I believe there are from time to</p> <p>21 time, yes. But I – I don't know off the top</p> <p>22 of my head.</p> <p>23 Q. Can you identify the maker of any</p> <p>24 Promissory Note that is the subject of any</p> <p>25 agreement with the Dugaboy trustee other than</p>

<p>Page 30</p> <p>1 JAMES DONDERO</p> <p>2 the Promissory Notes that are the subject of</p> <p>3 the pending lawsuits?</p> <p>4 A. Not specifically, but I believe</p> <p>5 there are.</p> <p>6 Q. Okay. Can you identify the</p> <p>7 principal amount of any Promissory Note that is</p> <p>8 the subject of an agreement with the Dugaboy</p> <p>9 trustee that is not part of the pending</p> <p>10 lawsuits?</p> <p>11 A. Not specifically.</p> <p>12 Q. Can you tell me the year in which</p> <p>13 any Promissory Note was ever executed that is</p> <p>14 the subject of any agreement with the Dugaboy</p> <p>15 trustee other than the Promissory Notes that</p> <p>16 are the subject of the pending lawsuits?</p> <p>17 A. I believe there were several, and I</p> <p>18 believe there were numerous ones over the</p> <p>19 years.</p> <p>20 Q. Okay. And -- and are those</p> <p>21 Promissory Notes subject to one of the three</p> <p>22 agreements that we've identified or subject to</p> <p>23 some other agreement with the Dugaboy trustee?</p> <p>24 A. Well, they weren't to these related</p> <p>25 entities. I -- I don't know what the</p>	<p>Page 31</p> <p>1 JAMES DONDERO</p> <p>2 agreements were specifically subject to.</p> <p>3 Q. Are you the person who entered into</p> <p>4 the agreement with the Dugaboy trustee</p> <p>5 concerning the notes that you are describing</p> <p>6 right now?</p> <p>7 A. Yes, I guess.</p> <p>8 Q. As the person who entered into the</p> <p>9 agreement with the Dugaboy trustee concerning</p> <p>10 Notes that are not the subject of the pending</p> <p>11 litigation, can you identify anything about</p> <p>12 those Notes, whether it's the maker, the date,</p> <p>13 the principal amount, anything at all?</p> <p>14 A. Not off the top of my head.</p> <p>15 Q. Okay. What would -- what would you</p> <p>16 have to look at to know? The chart or</p> <p>17 something else?</p> <p>18 A. No, not this -- not this chart.</p> <p>19 This only has to do with what we thought this</p> <p>20 deposition was going to be about.</p> <p>21 It would be the financials of</p> <p>22 Dugaboy; and then from there, the detail</p> <p>23 regarding any Notes that it has.</p> <p>24 Q. Did you enter into an agreement with</p> <p>25 the Dugaboy trustee to forgive a Promissory</p>
<p>Page 32</p> <p>1 JAMES DONDERO</p> <p>2 Note where Dugaboy is the maker and Highland is</p> <p>3 the payee?</p> <p>4 A. Dugaboy -- can you repeat that</p> <p>5 question one more time?</p> <p>6 Q. Sure. Did you enter into an</p> <p>7 agreement with the Dugaboy trustee relating to</p> <p>8 any Promissory Note where Dugaboy is the maker?</p> <p>9 A. No, I don't believe so.</p> <p>10 Q. Okay. So you don't have any</p> <p>11 recollection of ever entering into an agreement</p> <p>12 with the Dugaboy trustee concerning the</p> <p>13 potential forgiveness of any Note that was made</p> <p>14 by Dugaboy, correct?</p> <p>15 A. I -- I do not believe so.</p> <p>16 Q. Okay. And is there a -- is there a</p> <p>17 document that we could look at that would</p> <p>18 refresh your recollection?</p> <p>19 A. Not beyond the financials of Dugaboy</p> <p>20 and any relevant Note detail.</p> <p>21 Q. And would -- is it -- is it your</p> <p>22 testimony that an agreement with Dugaboy would</p> <p>23 be reflected in the Dugaboy financial</p> <p>24 statements?</p> <p>25 A. No, but the Notes would be.</p>	<p>Page 33</p> <p>1 JAMES DONDERO</p> <p>2 Q. Well, the Dugaboy Notes are</p> <p>3 reflected in Highland's financial statements.</p> <p>4 Do you want me to get that?</p> <p>5 A. No. I didn't think that was -- I</p> <p>6 didn't think that was the question you were</p> <p>7 asking me.</p> <p>8 Q. I apologize. Maybe it was my fault.</p> <p>9 What would we have to look at in</p> <p>10 order to refresh your recollection as to</p> <p>11 whether or not you entered into an agreement</p> <p>12 with the Dugaboy trustee concerning the</p> <p>13 potential forgiveness of any Note made by</p> <p>14 Dugaboy?</p> <p>15 A. Other than the ones we're talking</p> <p>16 about today, right?</p> <p>17 Q. We're not talking about -- there's</p> <p>18 no Promissory Note where Dugaboy is the maker</p> <p>19 that is the subject of any of the pending</p> <p>20 lawsuits, correct?</p> <p>21 A. Correct.</p> <p>22 Q. So I'm asking you to identify if you</p> <p>23 can any Promissory Note that is the subject of</p> <p>24 any agreement you have ever entered into with</p> <p>25 the Dugaboy trustee that is not the subject of</p>

<p>Page 34</p> <p>1 JAMES DONDERO</p> <p>2 one of the pending lawsuits.</p> <p>3 Do you understand that that's what</p> <p>4 I'm trying to get at?</p> <p>5 MS. DEITSCH-PEREZ: Asked and</p> <p>6 answered.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Okay. Can you identify any such</p> <p>10 Promissory Note?</p> <p>11 A. No, not specifically as I sit here</p> <p>12 today.</p> <p>13 Q. Okay. Other than the promissory –</p> <p>14 withdrawn.</p> <p>15 Are you familiar with the term</p> <p>16 "majority interest" as used in the Highland</p> <p>17 Limited Partnership Agreement?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Other than the Promissory</p> <p>20 Notes that are the subject of the pending</p> <p>21 lawsuits, are you aware of any other Promissory</p> <p>22 Notes that are the subject of any agreement</p> <p>23 with the majority interest?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form. Asked and answered.</p>	<p>Page 35</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: The majority interest</p> <p>3 is controlled by the 75 percent. It's</p> <p>4 controlled by Dugaboy. But the majority</p> <p>5 interest isn't an entity in and of itself,</p> <p>6 right?</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. Has Dugaboy held the majority</p> <p>9 interest since the time that Highland was</p> <p>10 created?</p> <p>11 A. No.</p> <p>12 Q. Okay. So – so then I'm going to</p> <p>13 ask my question again.</p> <p>14 Are you aware of any agreement</p> <p>15 concerning any Promissory Note that is the</p> <p>16 subject – withdrawn.</p> <p>17 Are you aware of any agreement with</p> <p>18 the majority interest that concerns any</p> <p>19 Promissory Note where Highland is the payee</p> <p>20 other than the Notes that are the subject of</p> <p>21 the pending lawsuit?</p> <p>22 MS. DEITSCH-PEREZ: Asked and</p> <p>23 answered.</p> <p>24 THE WITNESS: Not specifically as I</p> <p>25 sit here today, but I do believe there have</p>
<p>Page 36</p> <p>1 JAMES DONDERO</p> <p>2 been numerous notes other than to these</p> <p>3 entities today where Dugaboy was the maker</p> <p>4 or recipient or whatever.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. So you do believe that Dugaboy was</p> <p>7 the maker of a Promissory Note that's subject</p> <p>8 to an agreement with the majority interest?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: What I'm saying is I</p> <p>12 believe Dugaboy had other – made other</p> <p>13 Notes and received other Notes from other</p> <p>14 entities other than Highland.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Does that have anything to do with</p> <p>17 Highland?</p> <p>18 Maybe I wasn't clear. I'm using the</p> <p>19 phrase "majority interest" as that phrase – I</p> <p>20 thought we had – I thought we had an</p> <p>21 understanding – as that phrase is used in the</p> <p>22 Highland Limited Partnership Agreement, right?</p> <p>23 A. I thought it was a definition term</p> <p>24 in the Highland, L.P.</p> <p>25 Q. It is, and I just – I'd like to</p>	<p>Page 37</p> <p>1 JAMES DONDERO</p> <p>2 move on if I can, but I just want some clarity</p> <p>3 here.</p> <p>4 Is there any agreement between</p> <p>5 Dugaboy and the majority interest concerning</p> <p>6 any Promissory Note where Dugaboy is the maker?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: I – I don't know what</p> <p>10 you're getting at. I have a tried to</p> <p>11 answer it the best I can several different</p> <p>12 ways.</p> <p>13 But try it one more time, and I'll</p> <p>14 try and answer it just specifically yes or</p> <p>15 no.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Okay. Is Dugaboy the maker on any</p> <p>18 Promissory Note where Highland is the payee?</p> <p>19 A. I don't believe so at this point.</p> <p>20 Q. Was Dugaboy ever the maker on a Note</p> <p>21 where Highland was the payee to the best of</p> <p>22 your knowledge?</p> <p>23 A. I don't – I just don't know what</p> <p>24 the actual accounting was or could have or</p> <p>25 should have been. But if it prepays a Note,</p>

<p>Page 38</p> <p>1 JAMES DONDERO</p> <p>2 instead of prepaying a Note, it could have left</p> <p>3 it in an existing Note outstanding and then</p> <p>4 issued a separate Note, right, instead of</p> <p>5 prepaying, right?</p> <p>6 So I don't know in the -- in the pas</p> <p>7 past or how exactly they handled prepays</p> <p>8 consistently over time. But at the moment, I</p> <p>9 don't believe there's a loan going from Dugaboy</p> <p>10 to Highland.</p> <p>11 But I do believe over the years,</p> <p>12 there were numerous loans from Dugaboy to other</p> <p>13 entities other than the ones we're talking</p> <p>14 about today.</p> <p>15 MS. DEITSCH-PEREZ: Okay. John,</p> <p>16 we've gone way far afield of the topics for</p> <p>17 this deposition or anything that you ought</p> <p>18 to be even asking this individual witness</p> <p>19 about given what these litigations are.</p> <p>20 Could we move on, please?</p> <p>21 MR. MORRIS: No. Other than --</p> <p>22 MS. DEITSCH-PEREZ: You're spending</p> <p>23 time on things other than the --</p> <p>24 MR. MORRIS: Please stop talking.</p> <p>25 MS. DEITSCH-PEREZ: -- action.</p>	<p>Page 39</p> <p>1 JAMES DONDERO</p> <p>2 MR. MORRIS: Please stop talking.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Other than the Promissory Notes that</p> <p>5 are the subject of the lawsuits, are you aware</p> <p>6 of any other Promissory Notes that are the</p> <p>7 subject of any agreement that the Dugaboy</p> <p>8 trustee ever entered into as a representative</p> <p>9 of the majority of Class A shareholders?</p> <p>10 MS. DEITSCH-PEREZ: Asked and</p> <p>11 answered. I think we've answered after the</p> <p>12 sixth time.</p> <p>13 THE WITNESS: Not as I sit here</p> <p>14 today.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. In paragraph 82 in about the fifth</p> <p>17 line down, there's a statement that, quote,</p> <p>18 "Nancy Dondero is representative for a majority</p> <p>19 of the Class A holders of plaintiff, agree that</p> <p>20 plaintiff would forgive the Notes."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. The word "plaintiff" as used in your</p> <p>24 answer refers to Highland Capital Management,</p> <p>25 L.P., correct?</p>
<p>Page 40</p> <p>1 JAMES DONDERO</p> <p>2 A. I -- no -- or wait. Hold on a</p> <p>3 second.</p> <p>4 Yes. I guess, yes.</p> <p>5 Q. Okay. At the time you entered into</p> <p>6 the agreements, did you understand that</p> <p>7 Dugaboy, as a majority -- as a representative</p> <p>8 of a majority of the Class A shareholders of</p> <p>9 the plaintiff was the entity that entered into</p> <p>10 the agreement on behalf of Highland?</p> <p>11 A. Yes.</p> <p>12 Q. And your sister Nancy is the trustee</p> <p>13 of Dugaboy today, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And Nancy was the trustee of Dugaboy</p> <p>16 at the time you entered into each of the</p> <p>17 agreements, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And you knew that at the time you</p> <p>20 entered each of the agreements, correct?</p> <p>21 A. Yes.</p> <p>22 Q. You knew she was acting on behalf of</p> <p>23 Dugaboy, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Your understanding at that time that</p>	<p>Page 41</p> <p>1 JAMES DONDERO</p> <p>2 you entered into each of the agreements with</p> <p>3 the Dugaboy trustee was that Dugaboy held the</p> <p>4 majority of Highland's Class A interest,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And that's exactly why you contacted</p> <p>8 Nancy to discuss the topics that ultimately led</p> <p>9 to the agreements, correct?</p> <p>10 A. Yes.</p> <p>11 Q. You specifically called Nancy</p> <p>12 because you wanted her to cause Dugaboy to</p> <p>13 enter into the agreements with you on behalf of</p> <p>14 Highland, correct?</p> <p>15 A. Yes.</p> <p>16 Q. And just as you wanted, Nancy, in</p> <p>17 fact, caused Dugaboy, as a representative of a</p> <p>18 majority of the Class A shareholders of</p> <p>19 plaintiff, to enter into each of the</p> <p>20 agreements, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Would you agree with me that the</p> <p>23 Promissory Notes that are the subject of the</p> <p>24 agreements were the debtor's property?</p> <p>25 A. I think I've stated numerous times</p>

<p style="text-align: right;">Page 42</p> <p>1 JAMES DONDERO</p> <p>2 due to them as that they would ultimately be</p> <p>3 compensation; but to be a bona fide Note and to</p> <p>4 have bona fide deferral at the time that they</p> <p>5 were issued, they were the debtor's property.</p> <p>6 And I guess they remained such until satisfied</p> <p>7 or until the condition as present – the</p> <p>8 condition subsequent is either triggered or</p> <p>9 impossible to be triggered.</p> <p>10 Q. Okay. Is it fair to say that the</p> <p>11 Promissory Notes that are the subject of the</p> <p>12 agreements were assets of the debtor at the</p> <p>13 time you entered into the agreements?</p> <p>14 A. Yes.</p> <p>15 Q. At the time you entered into the</p> <p>16 agreements, you understood that Dugaboy was</p> <p>17 exercising control over the debtor's property,</p> <p>18 correct?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 MR. MORRIS: Withdrawn.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. At the time you entered into the</p> <p>24 agreements, you understood that the Dugaboy</p> <p>25 trustee was going to exercise control over the</p>	<p style="text-align: right;">Page 43</p> <p>1 JAMES DONDERO</p> <p>2 debtor's property, correct?</p> <p>3 MS. DEITSCH-PEREZ: Object. Object</p> <p>4 to the form.</p> <p>5 THE WITNESS: Exercise control? I</p> <p>6 understood the trustee had the ability to</p> <p>7 grant the, whatever you want to call them,</p> <p>8 conditions subsequent.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. On that –</p> <p>11 A. Yes.</p> <p>12 Q. And that was – by entering into the</p> <p>13 agreement, would you agree with me, that the</p> <p>14 Dugaboy trustee exercised control over the</p> <p>15 Promissory Notes?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: They – The trustee</p> <p>19 exercised the rights given to it as a</p> <p>20 majority of Class A holders.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Okay. And is it your understanding</p> <p>23 that as part of the right, it altered the</p> <p>24 characteristics of the Promissory Notes?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p style="text-align: right;">Page 44</p> <p>1 JAMES DONDERO</p> <p>2 form.</p> <p>3 THE WITNESS: I just want to – I</p> <p>4 believe my testimony, I granted the</p> <p>5 conditions subsequent is my interpretation.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Right. And so that's fine. But</p> <p>8 that's – that's the thing that happened, but</p> <p>9 I'm just asking you what the impact of that</p> <p>10 was.</p> <p>11 When the Dugaboy trustee entered</p> <p>12 into the agreement, the result was that the</p> <p>13 terms and conditions of the Promissory Note</p> <p>14 were altered, correct?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: I don't want to – I</p> <p>18 want to say I don't know to that next week.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. You can't – okay. You can't tell</p> <p>21 me if your agreement with the Dugaboy trustee</p> <p>22 altered the terms and conditions of the</p> <p>23 Promissory Notes that were subject to the</p> <p>24 agreement; you can't tell me that?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p style="text-align: right;">Page 45</p> <p>1 JAMES DONDERO</p> <p>2 form.</p> <p>3 THE WITNESS: Yeah. I – again, it</p> <p>4 sounds like you're trying to take me</p> <p>5 towards legal terms of changing terms or</p> <p>6 modification in a Note or whatever; and</p> <p>7 I – I'm not – I don't have an opinion or</p> <p>8 the expert to comment on that.</p> <p>9 I can just say I knew she had the</p> <p>10 ability to create conditions subsequent.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Okay. So let's take, for example,</p> <p>13 the Notes that you signed.</p> <p>14 Those were demand notes, right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And after you entered into</p> <p>17 the agreement with the Dugaboy trustee, instead</p> <p>18 of it being a demand note, it was now a demand</p> <p>19 note subject to conditions subsequent, correct?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 THE WITNESS: Yeah, that ultimately</p> <p>23 they couldn't be demanded until conditions</p> <p>24 subsequent were met or unable to be met.</p> <p>25</p>

<p>Page 46</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. So can you agree with me that</p> <p>4 that -- that that was a change in the term of</p> <p>5 the Note?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: Yeah. See, that's the</p> <p>9 part I don't want to comment on. I just</p> <p>10 want to say I don't know.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Okay. Wasn't that the purpose of</p> <p>13 entering into the agreements was to change the</p> <p>14 terms of the each of the Promissory Notes?</p> <p>15 Wasn't that your intent?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 THE WITNESS: I'd say the intent was</p> <p>19 to find and make compensation appropriate</p> <p>20 for industry standards and Highland in</p> <p>21 particular.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. And did you believe that the Notes</p> <p>24 as originally drafted and signed by you or the</p> <p>25 representatives of the makers didn't take that</p>	<p>Page 47</p> <p>1 JAMES DONDERO</p> <p>2 into account?</p> <p>3 A. I went through this already last</p> <p>4 time, but the Notes were intentionally loose</p> <p>5 and, I think, anticipated the ability to adjust</p> <p>6 the subsequent conditions or other things.</p> <p>7 Q. Now, you told me that each of the</p> <p>8 agreements was entered into between December of</p> <p>9 one year or -- actually, withdrawn.</p> <p>10 If we look at paragraph 82, it says</p> <p>11 that each of the agreements was made, quote,</p> <p>12 "sometime between the December of the year in</p> <p>13 which each note was made and February of the</p> <p>14 following year."</p> <p>15 Do I have that right?</p> <p>16 A. Yes.</p> <p>17 Q. Can you identify with any greater</p> <p>18 specificity when you entered into the first</p> <p>19 agreement with the Dugaboy trustee referenced</p> <p>20 in paragraph 82?</p> <p>21 A. No.</p> <p>22 Q. It's sometime within that 90-day</p> <p>23 period; does that sound right to you?</p> <p>24 A. I believe it was closer to the</p> <p>25 holidays around the turn of the year, but I</p>
<p>Page 48</p> <p>1 JAMES DONDERO</p> <p>2 don't have specific recollection.</p> <p>3 Q. Is that answer the same for all</p> <p>4 three agreements or only for the first</p> <p>5 agreement?</p> <p>6 A. That would be the same for all</p> <p>7 three.</p> <p>8 Q. So then why -- why does paragraph 82</p> <p>9 refer to sometime between December of the year</p> <p>10 in which each note was made and February of the</p> <p>11 following year if your best recollection is</p> <p>12 that it happened around the holidays?</p> <p>13 A. I don't know.</p> <p>14 Q. All right. But as you sit here</p> <p>15 right now, is it your testimony that you</p> <p>16 believe each of the agreements was signed --</p> <p>17 was more likely signed in December rather than</p> <p>18 January or February?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I think signed is a --</p> <p>22 I'm not -- I'm not testifying that signed,</p> <p>23 I guess.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. I apologize. Maybe that was my</p>	<p>Page 49</p> <p>1 JAMES DONDERO</p> <p>2 mistake.</p> <p>3 Is it your testimony that each --</p> <p>4 that you entered each of the agreements with</p> <p>5 the Dugaboy trustee in December rather than</p> <p>6 January or February of the years indicated?</p> <p>7 A. That's the best of my recollection,</p> <p>8 but there may have been one year that was</p> <p>9 towards the wider end of the interval. I can't</p> <p>10 remember with more specificity.</p> <p>11 Q. Okay. Do you know of anything that</p> <p>12 memorialized the date on which you entered into</p> <p>13 any of the agreements?</p> <p>14 A. No, other than -- no, other than --</p> <p>15 no, other than, you know, other than travel</p> <p>16 schedule or phone logs or whatever.</p> <p>17 Q. All right. During the discussion</p> <p>18 that led to the agreements, did you ever</p> <p>19 provide any information to Nancy or to Dugaboy</p> <p>20 concerning your compensation?</p> <p>21 A. Just -- just verbal. I mean, she</p> <p>22 knew it was low, and she knew we had reinvested</p> <p>23 most everything we made back in the company</p> <p>24 over the years. And that was the -- that was,</p> <p>25 I think, understanding by all involved; and it</p>

<p>Page 50</p> <p>1 JAMES DONDERO</p> <p>2 should be obvious to anybody who's looked at</p> <p>3 the numbers even in hindsight.</p> <p>4 MR. MORRIS: Okay. I move to</p> <p>5 strike.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. And please listen carefully to my</p> <p>8 question.</p> <p>9 During the discussions that led to</p> <p>10 each of the agreements, did you ever provide</p> <p>11 any information to your sister or Dugaboy</p> <p>12 concerning your compensation?</p> <p>13 MS. DEITSCH-PEREZ: Asked and</p> <p>14 answered.</p> <p>15 THE WITNESS: Not specifically.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Did you provide any general</p> <p>18 information to your sister or to Dugaboy prior</p> <p>19 to the entry of any of the three agreements</p> <p>20 that you entered into with the Dugaboy trustee?</p> <p>21 A. I would repeat the answer that was</p> <p>22 struck two questions ago.</p> <p>23 Q. That's the information that you gave</p> <p>24 to her?</p> <p>25 A. Yeah. It was -- again, it was</p>	<p>Page 51</p> <p>1 JAMES DONDERO</p> <p>2 verbal, and it was -- but an understanding but</p> <p>3 a clear and obvious understanding.</p> <p>4 Q. I want to know exactly what</p> <p>5 information you gave to your sister and to</p> <p>6 Dugaboy before entering into any of the three</p> <p>7 agreements with the Dugaboy trustee?</p> <p>8 A. Most of what I had made over the</p> <p>9 years was rolled back into the business to</p> <p>10 propel growth and initiatives. And that my</p> <p>11 actual compensation was very modest based on</p> <p>12 industry standards and relevant</p> <p>13 responsibilities at Highland.</p> <p>14 Q. Did you tell her anything else?</p> <p>15 Withdrawn.</p> <p>16 Did you tell your -- Nancy or</p> <p>17 Dugaboy anything else beyond what you've now</p> <p>18 testified to?</p> <p>19 A. You know, I think some of what I</p> <p>20 testified to earlier, that forgiveness of the</p> <p>21 Notes would be a modest increase in that</p> <p>22 compensation but still not be in the ZIP code</p> <p>23 of fair and appropriate compensation and that</p> <p>24 the value of the Notes in aggregate were de</p> <p>25 minimis relative to Highland and de minimis</p>
<p>Page 52</p> <p>1 JAMES DONDERO</p> <p>2 relative to Dugaboy.</p> <p>3 Q. Did you tell her anything else?</p> <p>4 A. Anything else would have fallen into</p> <p>5 the buckets I just described, but I can't</p> <p>6 remember specifically as I sit here today.</p> <p>7 Q. Did you ever tell your sister or</p> <p>8 Dugaboy that your salary was less than a</p> <p>9 million dollars?</p> <p>10 A. I --</p> <p>11 MS. DEITSCH-PEREZ: I mean, just</p> <p>12 from Highland?</p> <p>13 THE WITNESS: Repeat the question</p> <p>14 again for me, please.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Did you ever tell your sister that</p> <p>17 your salary was less than a million dollars a</p> <p>18 year?</p> <p>19 A. I know my sister was aware that it</p> <p>20 was very low, and it kind of decreased over</p> <p>21 time, and I think it was paid by different</p> <p>22 entities.</p> <p>23 Whether it was a million or</p> <p>24 2 million, I can't remember exactly what I</p> <p>25 would have told her; but it would have been in</p>	<p>Page 53</p> <p>1 JAMES DONDERO</p> <p>2 that ZIP code to paint the proper picture that</p> <p>3 the cash compensation for somebody in my role</p> <p>4 was well below industry standards.</p> <p>5 Q. Do you recall anything else that you</p> <p>6 shared with your sister concerning your</p> <p>7 compensation that you haven't testified to?</p> <p>8 A. Like I said, it would generally fall</p> <p>9 into those buckets as I sit here today.</p> <p>10 Q. Did your sister or Dugaboy ask you</p> <p>11 any questions about your compensation before</p> <p>12 entering into the three agreements that you</p> <p>13 entered into with the Dugaboy trustee?</p> <p>14 A. And, again, it would fall into the</p> <p>15 buckets I just described.</p> <p>16 Q. Can you -- can you recall any</p> <p>17 question that your sister or Dugaboy asked of</p> <p>18 you concerning your compensation before</p> <p>19 entering into the agreements?</p> <p>20 MS. DEITSCH-PEREZ: Asked answered.</p> <p>21 THE WITNESS: Again, I -- it would</p> <p>22 fall into the buckets I just described.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Did you provide any documents to</p> <p>25 your sister or to Dugaboy concerning your</p>

<p>Page 54</p> <p>1 JAMES DONDERO</p> <p>2 compensation before entering into the</p> <p>3 agreements?</p> <p>4 A. No, not that I can recall.</p> <p>5 Q. Did your sister or Dugaboy ask you</p> <p>6 for any documents before entering into – into</p> <p>7 any of the agreements?</p> <p>8 A. I do not – I do not believe so.</p> <p>9 Q. Do you recall that in the ordinary</p> <p>10 course of business, Highland prepared a</p> <p>11 document called a Compensation and Benefits</p> <p>12 Statement for each of its employees?</p> <p>13 A. Yes.</p> <p>14 Q. And was that prepared by the Human</p> <p>15 Resources Group?</p> <p>16 A. Yes.</p> <p>17 Q. And was Mark Collins the head of the</p> <p>18 Human Resources Group?</p> <p>19 A. No.</p> <p>20 Q. Who was the head of the Human</p> <p>21 Resources Group?</p> <p>22 A. Brian Collins.</p> <p>23 Q. I apologize to Mr. Collins. Thank</p> <p>24 you for the correction.</p> <p>25 And Mr. Collins and his team were</p>	<p>Page 55</p> <p>1 JAMES DONDERO</p> <p>2 responsible for preparing the annual</p> <p>3 Compensation and Benefits Statements for</p> <p>4 Highland's employees, correct?</p> <p>5 A. Yes.</p> <p>6 Q. And did you instruct them to do</p> <p>7 that?</p> <p>8 A. Not specifically.</p> <p>9 Q. Okay.</p> <p>10 A. They do it every year. They do it</p> <p>11 every year as a matter of course, so I guess no</p> <p>12 is the answer.</p> <p>13 Q. Okay. So in the ordinary course of</p> <p>14 business, Mr. Collins and his team would</p> <p>15 prepare Compensation and Benefits Statements</p> <p>16 for each of Highland's employees on an annual</p> <p>17 basis, right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 MR. MORRIS: Can we please put up</p> <p>21 Exhibit 68.</p> <p>22 MS. CANTY: (Complies with request.)</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 56</p> <p>1 JAMES DONDERO</p> <p>2 (Whereupon, Exhibit 68, James</p> <p>3 Dondero Compensation and Benefits</p> <p>4 Statement, Bates stamped D-CNL003585,</p> <p>5 marked for identification, as of this</p> <p>6 date.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Do you see the document that's been</p> <p>9 premarked as Exhibit 68 that's up on the</p> <p>10 screen, sir?</p> <p>11 A. Yup.</p> <p>12 Q. And does this appear to be the form</p> <p>13 of annual Compensation and Benefits Statement</p> <p>14 that Mr. Collins and his team prepared on an</p> <p>15 annual basis for Highland's employees?</p> <p>16 A. This looks like the format, yes.</p> <p>17 Q. Okay. And the Compensation and</p> <p>18 Benefits Statement was intended to set forth</p> <p>19 the types and the amounts of compensation each</p> <p>20 employee received each year, correct?</p> <p>21 A. Yes, generally.</p> <p>22 Q. Okay. Did you ever disclose any</p> <p>23 information on this page to Nancy or to</p> <p>24 Dugaboy?</p> <p>25 A. Honestly, I don't think I've ever</p>	<p>Page 57</p> <p>1 JAMES DONDERO</p> <p>2 seen my award letters before.</p> <p>3 Q. Okay. So you never – so then it's</p> <p>4 a fair to say you never showed this letter to</p> <p>5 your sister or to Dugaboy, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Did you ever disclose to</p> <p>8 Nancy or to Dugaboy the salary that's reflected</p> <p>9 on this document?</p> <p>10 A. I can't remember specifically beyond</p> <p>11 what I've already testified.</p> <p>12 Q. Did you ever describe for Nancy or</p> <p>13 for Dugaboy the 2016 deferred compensation</p> <p>14 award that's reflected on this document?</p> <p>15 A. No. I – by the way, I think that's</p> <p>16 only 20 percent vested a year. I think that's</p> <p>17 a gross amount. But no, I never – I never</p> <p>18 discussed that with her.</p> <p>19 Q. Okay. Do you see in the</p> <p>20 compensation award refers to 50,000 restricted</p> <p>21 stock units of NXRT relating to your 2016</p> <p>22 performance?</p> <p>23 A. Yes.</p> <p>24 Q. What is NXRT?</p> <p>25 A. That's the REIT that Highland used</p>

<p>Page 58</p> <p>1 JAMES DONDERO</p> <p>2 to own million shares of that series hold at 20</p> <p>3 that now trade at 70.</p> <p>4 Q. And is NexPoint REIT affiliated with</p> <p>5 NexPoint Advisors, L.P.?</p> <p>6 A. Yes.</p> <p>7 Q. And do you have an understanding of</p> <p>8 the nature of the relationship?</p> <p>9 A. Yes.</p> <p>10 Q. And what's -- what's your</p> <p>11 understanding of the nature of the relationship</p> <p>12 between NexPoint REIT and NexPoint Advisors,</p> <p>13 L.P.?</p> <p>14 A. It's the external manager of the</p> <p>15 REIT.</p> <p>16 Q. Okay. Did you ever tell Nancy or</p> <p>17 Dugaboy that you had received these restricted</p> <p>18 stock units in 2016?</p> <p>19 A. No. But again, the vested amount</p> <p>20 would have probably been about \$250,000 worth</p> <p>21 at that moment.</p> <p>22 Q. And did it vest over a couple of</p> <p>23 years?</p> <p>24 A. The first couple of years is vested</p> <p>25 over five years. I think now it vests over six</p>	<p>Page 59</p> <p>1 JAMES DONDERO</p> <p>2 or seven years. I don't remember whether the</p> <p>3 2016 award was five years, six years, or seven</p> <p>4 years.</p> <p>5 Q. Okay. We talked earlier about an</p> <p>6 expert that's been retained on your behalf.</p> <p>7 Do you remember that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you recall if you or anybody</p> <p>10 acting on your behalf ever disclosed to that</p> <p>11 expert the restricted stock units reflected on</p> <p>12 this document?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 THE WITNESS: I don't know.</p> <p>16 MR. MORRIS: Let's put up</p> <p>17 Exhibit 50, please.</p> <p>18 MS. CANTY: (Complies with request.)</p> <p>19 (Whereupon, Exhibit 50, James</p> <p>20 Dondero Compensation and Benefits</p> <p>21 Statement, Bates stamped D-CNL003587,</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Do you see this is your benefits</p>
<p>Page 60</p> <p>1 JAMES DONDERO</p> <p>2 statement for 2017?</p> <p>3 A. Yes.</p> <p>4 Q. Did you ever disclose any of the</p> <p>5 information on this page to Nancy or to</p> <p>6 Dugaboy?</p> <p>7 A. No.</p> <p>8 Q. Did you ever disclose to Nancy or to</p> <p>9 Dugaboy that your base salary in 2017 was.</p> <p>10 2,500,024?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: Not specifically, no,</p> <p>14 other than the buckets we talked about</p> <p>15 earlier.</p> <p>16 Like I said earlier, I'm not sure if</p> <p>17 I have ever seen these before. But I also</p> <p>18 -- until it's verified, I don't want to --</p> <p>19 everybody to assume that the base salary</p> <p>20 came a hundred percent from Highland or if</p> <p>21 it was also from some other entity.</p> <p>22 Because for the purposes of this letter,</p> <p>23 Brian Collins wouldn't have -- we have</p> <p>24 numerous or several employees that are dual</p> <p>25 employees. And whether their base salary</p>	<p>Page 61</p> <p>1 JAMES DONDERO</p> <p>2 came from one or multiple entities, he</p> <p>3 wouldn't have differentiated in that line.</p> <p>4 So I don't know whether that amount,</p> <p>5 that 2.5 million came from Highland or a</p> <p>6 combination of Highland/NexPoint or some</p> <p>7 other entities. I don't know.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. And who made the decision as to how</p> <p>10 to allocate the base salary?</p> <p>11 A. I don't know. I -- I mean, I don't</p> <p>12 know how it was split. But my recollection of</p> <p>13 my Highland base salary is that it was</p> <p>14 diminishing over time.</p> <p>15 Q. And -- and as the president of</p> <p>16 Highland and as the president of NexPoint, did</p> <p>17 you have any say as to how your salary was</p> <p>18 allocated between those two entities?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Do you have any idea the basis on</p> <p>21 which your salary was allocated between those</p> <p>22 two entities?</p> <p>23 A. No.</p> <p>24 Q. Do you think -- do -- do you have</p> <p>25 any understanding that it was allocated based</p>

<p>Page 62</p> <p>1 JAMES DONDERO</p> <p>2 on the amount of time you spent working for</p> <p>3 each of those entities?</p> <p>4 A. I have no idea.</p> <p>5 Q. If your salary was \$500,000 from</p> <p>6 Highland in 2017 and \$2 million to NexPoint,</p> <p>7 can you – can you think of any reason why it</p> <p>8 would be allocated in that way?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 THE WITNESS: Cash, cash</p> <p>12 availability. I – I don't know.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Okay. Did you devote your full time</p> <p>15 and attention to Highland Capital Management,</p> <p>16 L.P.?</p> <p>17 A. I spread my time as appropriate</p> <p>18 across a variety of entities.</p> <p>19 Q. Can you identify for me the entities</p> <p>20 that you spread your time across?</p> <p>21 A. Highland, NexPoint, HCMFA, HCRE.</p> <p>22 Q. How about Highland Management</p> <p>23 Services, Inc.?</p> <p>24 A. Yes.</p> <p>25 Q. Are there any others?</p>	<p>Page 63</p> <p>1 JAMES DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. Can you identify any other companies</p> <p>4 to which you devoted your time and attention?</p> <p>5 A. Not off the top of my head. I'm</p> <p>6 willing to be refreshed. But over the years</p> <p>7 there's been multiple initiatives at Highland</p> <p>8 that have come and gone and private equity</p> <p>9 companies that have come and gone and other</p> <p>10 initiatives that have come and gone.</p> <p>11 Q. Do you see the reference to the</p> <p>12 65,772 restricted stock units of the NexPoint</p> <p>13 REIT there on this document?</p> <p>14 A. Yes.</p> <p>15 Q. And was that, to the best of your</p> <p>16 recollection, the award that you were granted</p> <p>17 in connection with your 2017 performance?</p> <p>18 A. It would have been for – it would</p> <p>19 have been the prior awards at – it would have</p> <p>20 been for the prior years' awards at NFLP. And</p> <p>21 it would have been – it would have been the</p> <p>22 same five- or seven-year vesting schedule.</p> <p>23 MR. MORRIS: Now I'm looking at my</p> <p>24 phone, and I don't see, Deborah, any e-mail</p> <p>25 from your firm.</p>
<p>Page 64</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: Yeah. On a</p> <p>3 break, I'll take a picture of it and send</p> <p>4 it to you.</p> <p>5 Do you want a break now?</p> <p>6 MR. MORRIS: I really – I really</p> <p>7 don't. And I don't know why I can't get an</p> <p>8 e-mail copy rather than a photograph. It's</p> <p>9 not going to be – it's not going to be</p> <p>10 easy to read, and you know that?</p> <p>11 MS. DEITSCH-PEREZ: It'll be</p> <p>12 perfectly fine. If you can't, let me know;</p> <p>13 and then I'll take the time to try and find</p> <p>14 it. But the fastest way to get it to you</p> <p>15 is to take a picture of it.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Mr. Dondero, did you ever tell Nancy</p> <p>18 or Dugaboy that you had received the restricted</p> <p>19 stock units from the NexPoint REIT as reflected</p> <p>20 on this page?</p> <p>21 A. You're – you're saying the</p> <p>22 \$1.55-million number that was really 200,000</p> <p>23 vested or 300,000 vested?</p> <p>24 Q. No. I'm not talking about the</p> <p>25 value. I'm just talking about the restricted</p>	<p>Page 65</p> <p>1 JAMES DONDERO</p> <p>2 units.</p> <p>3 Did you ever tell them – let's keep</p> <p>4 it – let's keep it simple, and let's make it</p> <p>5 really broad.</p> <p>6 Did you ever tell Nancy or Dugaboy</p> <p>7 that you received restricted stock units as</p> <p>8 part of your compensation?</p> <p>9 A. I – I don't remember.</p> <p>10 Q. Okay. Did you ever – because this</p> <p>11 will speed it up.</p> <p>12 Did you ever tell your expert that</p> <p>13 you received restricted stock units as part of</p> <p>14 your compensation?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: I don't – I don't</p> <p>18 remember.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. Did you ever direct anyone acting on</p> <p>21 your behalf to share with your expert that you</p> <p>22 had received restricted stock units as a form</p> <p>23 of compensation?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>

<p>Page 66</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: I not – I wasn't</p> <p>3 involved.</p> <p>4 MR. MORRIS: All right. You know,</p> <p>5 what, Deborah, let's take a break; and why</p> <p>6 don't you send me that document.</p> <p>7 It is now 3:28. Let's come back at</p> <p>8 3:40 Eastern, and let's please be on time</p> <p>9 because I'd like to try to finish this</p> <p>10 today. Thank you.</p> <p>11 THE VIDEOGRAPHER: Off the record at</p> <p>12 2:28.</p> <p>13 (Whereupon, a break was taken.)</p> <p>14 THE VIDEOGRAPHER: We are back on</p> <p>15 the record. The time is 2:43.</p> <p>16 MR. MORRIS: I received from counsel</p> <p>17 a photograph in text message form of the</p> <p>18 document that Mr. Dondero was referring to</p> <p>19 at the beginning of the deposition.</p> <p>20 I'm going to ask for that production</p> <p>21 – for the production of that document with</p> <p>22 a Bates number by the end of the day, and I</p> <p>23 hope that could be accommodated.</p> <p>24 MS. DEITSCH-PEREZ: I'm not sure –</p> <p>25 John, I'm not sure it will be by the end of</p>	<p>Page 67</p> <p>1 JAMES DONDERO</p> <p>2 the day because I don't know when the</p> <p>3 people who do the Bates stamping leave.</p> <p>4 But if it's not today, it will be tomorrow.</p> <p>5 MR. MORRIS: All right. It's 2:44</p> <p>6 in the afternoon your time. I hope that</p> <p>7 your firm has the capability of Bates</p> <p>8 stamping and producing one page before the</p> <p>9 close of business.</p> <p>10 MS. DEITSCH-PEREZ: Okay. But I'm</p> <p>11 not going to get – John, what difference</p> <p>12 does it make whether it's tonight or</p> <p>13 tomorrow?</p> <p>14 MR. MORRIS: You know what, I really</p> <p>15 want to use it in the deposition now, but I</p> <p>16 can't do that because – because you're not</p> <p>17 able – because you – because apparently,</p> <p>18 you can't even promise to do it by the end</p> <p>19 of the day.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Mr. Dondero –</p> <p>22 MS. DEITSCH-PEREZ: Could you –</p> <p>23 could you use it –</p> <p>24 MR. MORRIS: I'd like to –</p> <p>25 MS. DEITSCH-PEREZ: – if I sent it</p>
<p>Page 68</p> <p>1 JAMES DONDERO</p> <p>2 to you by e-mail instead.</p> <p>3 MR. MORRIS: I'd like to proceed.</p> <p>4 You can e-mail it to me. I mean, I</p> <p>5 asked you to do that an hour ago.</p> <p>6 MS. DEITSCH-PEREZ: Well, the</p> <p>7 easiest way to do it is to send a picture</p> <p>8 is to text it; but if you give me a minute,</p> <p>9 I'll figure out how to send it by e-mail.</p> <p>10 Give me a second. Let's see.</p> <p>11 It just takes a second because it</p> <p>12 goes into my personal e-mail first if it's</p> <p>13 from my iPhone. Okay.</p> <p>14 MR. MORRIS: Can we proceed?</p> <p>15 MS. DEITSCH-PEREZ: Yeah. Give me a</p> <p>16 minute and you'll have it.</p> <p>17 Okay. You should have it in your</p> <p>18 e-mail now, John.</p> <p>19 MR. MORRIS: Thank you. All right.</p> <p>20 I'll let you know when it arrives.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Mr. Dondero, the questions now are</p> <p>23 going to be both in your individual capacity</p> <p>24 and in your capacity as the 30(b)(6) witness.</p> <p>25 Do you understand that?</p>	<p>Page 69</p> <p>1 JAMES DONDERO</p> <p>2 A. Okay.</p> <p>3 Q. Okay.</p> <p>4 A. It's either – it's either/or; it's</p> <p>5 not one?</p> <p>6 Q. No.</p> <p>7 A. Okay.</p> <p>8 Q. You contend that the Notes are</p> <p>9 subject to the – withdrawn.</p> <p>10 You contend that the Notes that are</p> <p>11 the subject of the agreements would be forgiven</p> <p>12 upon the fulfillment of certain conditions</p> <p>13 present, right?</p> <p>14 A. Right.</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form. He said "subsequent."</p> <p>17 MR. MORRIS: I apologize. Let me</p> <p>18 restate the question.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. You contend that the Notes subject</p> <p>21 to the agreement should be forgiven or would be</p> <p>22 forgiven upon the fulfillment of certain</p> <p>23 conditions subsequent, correct?</p> <p>24 A. Yes.</p> <p>25 Q. And to the best of your knowledge,</p>

<p style="text-align: right;">Page 70</p> <p>1 JAMES DONDERO</p> <p>2 none of those conditions have occurred as of</p> <p>3 today, correct?</p> <p>4 A. To the best of my knowledge, yes.</p> <p>5 Q. Okay. You're not aware of any facts</p> <p>6 showing that any of the conditions subsequent</p> <p>7 have been satisfied, fair?</p> <p>8 A. I – yeah. I wouldn't know. You</p> <p>9 would probably know. I don't know.</p> <p>10 Q. I'm only asking for your knowledge.</p> <p>11 One of the conditions subsequent was</p> <p>12 that the Notes would be forgiven if you caused</p> <p>13 Highland to sell its interest in one of three</p> <p>14 portfolio companies above cost, right?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 THE WITNESS: I – yeah. I don't</p> <p>18 know if the noun is me or Highland, but</p> <p>19 yeah.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Okay. The portfolio companies at</p> <p>22 issue were MGM, Comerstone, and Trustway,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. And prior to the petition date, you</p>	<p style="text-align: right;">Page 71</p> <p>1 JAMES DONDERO</p> <p>2 had the authority to sell any of those</p> <p>3 portfolio companies at any time without having</p> <p>4 to obtain approval from anyone, correct?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 THE WITNESS: Yeah. No, I can't</p> <p>8 agree with that statement.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Why not?</p> <p>11 Who's approval did you have to get</p> <p>12 before you could sell any of those portfolio</p> <p>13 companies?</p> <p>14 A. MGM, I was one board member and I</p> <p>15 think an aggregate. When I was running</p> <p>16 Highland, we spoke for 18 percent of the</p> <p>17 equity. So I couldn't force the overall sale</p> <p>18 of the company unilaterally.</p> <p>19 There was also a shareholder's</p> <p>20 agreement in place that restricted myself and</p> <p>21 Anchorage and a couple of the large holders</p> <p>22 from selling their shares without a disclosure</p> <p>23 and approval process. That is one example.</p> <p>24 With regard to Trustway, I believe I</p> <p>25 was largely unfettered.</p>
<p style="text-align: right;">Page 72</p> <p>1 JAMES DONDERO</p> <p>2 With regard to Comerstone, a</p> <p>3 majority of it – or not a majority, but a</p> <p>4 significant minority, I think, was owned by</p> <p>5 both Restoration and the Old Redeemer Fund.</p> <p>6 Q. All right. Well, let me ask you</p> <p>7 this: The conditions subsequent that are</p> <p>8 embedded in the agreements, did that relate to</p> <p>9 just Highland's interests in the portfolio</p> <p>10 companies, or did it relate to interests held</p> <p>11 by anybody else?</p> <p>12 A. It referred to a monetization in</p> <p>13 creating liquidity around Highland's interests</p> <p>14 that were large and illiquid portions of</p> <p>15 Highland's balance sheet.</p> <p>16 Q. Okay. So let me ask the question</p> <p>17 again.</p> <p>18 Prior to the petition date, did you</p> <p>19 have the authority to sell Highland's interests</p> <p>20 in any of the portfolio companies without</p> <p>21 having to obtain the authority of anybody else?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form. Asked and answered.</p> <p>24 THE WITNESS: Sub- – subject to my</p> <p>25 prior answer, I could speak for Highland</p>	<p style="text-align: right;">Page 73</p> <p>1 JAMES DONDERO</p> <p>2 prior to the bankruptcy.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Okay. Before entering into the</p> <p>5 agreements, did you or anybody acting on your</p> <p>6 behalf analyze the likelihood that any of the</p> <p>7 conditions subsequent would occur?</p> <p>8 A. Likelihood? Analyze? My</p> <p>9 description of them, which was my understanding</p> <p>10 of them, but my description of the assets to my</p> <p>11 sister was – to the trustee of Dugaboy was</p> <p>12 that we held them for a long time. We were</p> <p>13 working towards monetization, but there wasn't</p> <p>14 anything imminent regarding any of them in 2017</p> <p>15 or '18.</p> <p>16 Q. Well, but the actual sale is just</p> <p>17 one part of the condition subsequent, correct?</p> <p>18 The other part is that it's got to</p> <p>19 be sold above cost; is that correct?</p> <p>20 A. That is right.</p> <p>21 Q. Okay. So at the time you entered</p> <p>22 into each of your – each of the three</p> <p>23 agreements, had you done any analysis to</p> <p>24 determine whether or not any – whether</p> <p>25 Highland's interests in any of the portfolio</p>

<p>Page 74</p> <p>1 JAMES DONDERO</p> <p>2 companies exceeded its cost?</p> <p>3 A. No, but I – yes. No, I did not.</p> <p>4 Q. Did you have any understanding at</p> <p>5 all as to how the value of Highland's interests</p> <p>6 in MGM compared to its costs at the time you</p> <p>7 entered into each of these three agreements?</p> <p>8 A. No. I mean, my understanding was I</p> <p>9 knew they were substantially higher, but I</p> <p>10 didn't know how much higher.</p> <p>11 Q. Okay. So is it fair to say that the</p> <p>12 time – at the time you entered into each of</p> <p>13 these agreements, you knew and understood that</p> <p>14 the value of Highland's interests in MGM was</p> <p>15 substantially higher than its costs?</p> <p>16 A. For MGM, yes.</p> <p>17 Q. Okay. Did you have an understanding</p> <p>18 of the relationship between value and costs</p> <p>19 concerning Cornerstone at the time you entered</p> <p>20 into these agreements?</p> <p>21 A. My understanding it was moderately</p> <p>22 higher, and Trustway was between substantially</p> <p>23 and moderately and higher, I believe.</p> <p>24 Q. Okay. So is it fair to say that at</p> <p>25 the time you entered into each of these</p>	<p>Page 75</p> <p>1 JAMES DONDERO</p> <p>2 agreements, you believed that the value of</p> <p>3 Highland's interests in each of the portfolio</p> <p>4 companies exceeded its costs in varying</p> <p>5 degrees?</p> <p>6 A. Varying degrees. As a matter of</p> <p>7 fact, I would adjust. Cornerstone and</p> <p>8 Trustway, I believe, were moderately higher</p> <p>9 than their embedded costs or implied costs.</p> <p>10 That was my understanding.</p> <p>11 MGM was somewhat substantially. But</p> <p>12 all of them with a fair amount of volatility</p> <p>13 and a fair amount of illiquidity.</p> <p>14 Q. Did you ever give your sister or</p> <p>15 Dugaboy any information concerning how the</p> <p>16 value of Highland's interests in any of the</p> <p>17 portfolio companies compared to Highland's</p> <p>18 costs before entering into the agreements?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Do you have any reason to believe</p> <p>21 that your sister or Dugaboy had any</p> <p>22 understanding as to the likelihood that the</p> <p>23 conditions subsequent would be satisfied at the</p> <p>24 time the Dugaboy trustee entered into the three</p> <p>25 agreements with you?</p>
<p>Page 76</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: I – I remember saying</p> <p>5 it would take a few years at minimum; but</p> <p>6 other than expressing time, I don't believe</p> <p>7 I expressed value versus cost or the</p> <p>8 questions you were asking me previously.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Okay. You never showed Nancy or</p> <p>11 Dugaboy any of the Promissory Notes prior to</p> <p>12 entering into any of the agreements, correct?</p> <p>13 A. Not that I recall.</p> <p>14 Q. And you never sent copies of the</p> <p>15 Promissory Notes to Nancy or Dugaboy before</p> <p>16 entering into any of these agreements, correct?</p> <p>17 A. Not that I recall.</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 John, you've asked these at the last</p> <p>21 deposition and actually also at the first</p> <p>22 day of the deposition.</p> <p>23 MR. MORRIS: Thank you. He's here</p> <p>24 now in his 30(b)(6) capacity. So please</p> <p>25 just stop.</p>	<p>Page 77</p> <p>1 JAMES DONDERO</p> <p>2 You can object to the form of the</p> <p>3 question. I really don't appreciate it.</p> <p>4 You should follow the very professional job</p> <p>5 that your colleague, Michael Aigen, did the</p> <p>6 other day.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Neither Nancy or Dugaboy has ever</p> <p>9 asked to see copies of any of the Promissory</p> <p>10 Notes before entering into any of the</p> <p>11 agreements, correct?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: I don't know.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Do you have any reason to believe</p> <p>17 that Nancy or Dugaboy ever saw a copy of any of</p> <p>18 the Promissory Notes at issue before entering</p> <p>19 into the agreements?</p> <p>20 A. I don't know.</p> <p>21 Q. During your discussions with Nancy</p> <p>22 and Dugaboy, did you identify the Promissory</p> <p>23 Notes that were going to be the subject of each</p> <p>24 agreement?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>

<p>Page 78</p> <p>1 JAMES DONDERO</p> <p>2 form.</p> <p>3 You know, we made an agreement that</p> <p>4 you were going to refer to Nancy as the</p> <p>5 Dugaboy trustee. Please stick to it.</p> <p>6 Otherwise, I'm going to have to object each</p> <p>7 time, and I'd rather not.</p> <p>8 MR. MORRIS: I have no problem with</p> <p>9 your objecting to the form of the question.</p> <p>10 It's the speaking that I really do object</p> <p>11 to. And I don't know why you can't control</p> <p>12 yourself.</p> <p>13 MS. DEITSCH-PEREZ: Because I</p> <p>14 hope that –</p> <p>15 MR. MORRIS: Please stop. Please</p> <p>16 stop.</p> <p>17 MS. DEITSCH-PEREZ: – by telling</p> <p>18 you this, you will listen.</p> <p>19 MR. MORRIS: Okay. Your discussion</p> <p>20 and your inability to control yourself is</p> <p>21 going to cause this deposition to go longer</p> <p>22 than it needs to, okay?</p> <p>23 MS. DEITSCH-PEREZ: No. It's your</p> <p>24 repeating questions that's going to do</p> <p>25 that.</p>	<p>Page 79</p> <p>1 JAMES DONDERO</p> <p>2 MR. MORRIS: You let me know when</p> <p>3 you're done.</p> <p>4 MS. DEITSCH-PEREZ: I'm done.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Mr. Dondero, during your discussions</p> <p>7 with the Dugaboy trustee, did you identify the</p> <p>8 Promissory Notes that were going to be the</p> <p>9 subject of each agreement?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: No, not that I recall.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Do you recall – during your</p> <p>15 discussions with the Dugaboy trustee, did you</p> <p>16 identify the maker of any of the Notes that</p> <p>17 were the subject of any of the agreements?</p> <p>18 A. You mean Highland as the maker; is</p> <p>19 that what you're saying?</p> <p>20 Q. No. I'm just asking if during your</p> <p>21 discussions with the Dugaboy trustee, you ever</p> <p>22 disclosed the name of the maker of any of the</p> <p>23 Notes that were subject to the agreements?</p> <p>24 A. She – she knew they were Notes due</p> <p>25 to Highland from various entities. So I don't</p>
<p>Page 80</p> <p>1 JAMES DONDERO</p> <p>2 know what your question is. Did I identify</p> <p>3 specifically that they were Notes due to</p> <p>4 Highland? I guess the answer to that is yes,</p> <p>5 but I don't know what you're asking me.</p> <p>6 Q. I'm sorry, sir. I'll take the</p> <p>7 responsibility for that.</p> <p>8 I'm asking you if you identified who</p> <p>9 the maker of the Notes were, not who the payee</p> <p>10 was.</p> <p>11 MS. DEITSCH-PEREZ: You mean the</p> <p>12 borrowers, John?</p> <p>13 THE WITNESS: See, I don't want to</p> <p>14 get stuck in my underwear on maker/borrower</p> <p>15 nomenclature.</p> <p>16 She was aware that they were notes</p> <p>17 due to Highland from a variety of entities.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay. Did you identify any of those</p> <p>20 entities?</p> <p>21 A. I – yeah. She knew that some were</p> <p>22 Dugaboy, some were NexPoint for sure, and some</p> <p>23 were other entities.</p> <p>24 Q. So – so there were notes where</p> <p>25 Dugaboy owed the money or was the obligor or</p>	<p>Page 81</p> <p>1 JAMES DONDERO</p> <p>2 was the borrower or was the maker that are</p> <p>3 subject to agreements that you entered into</p> <p>4 with the Dugaboy trustee?</p> <p>5 A. No. Wait. The Dugaboy – the</p> <p>6 Dugaboy Notes weren't subject to the</p> <p>7 forgiveness. It was the other notes that were</p> <p>8 subject to forgiveness.</p> <p>9 Q. So it's really kind of a simple</p> <p>10 question, and I'm not trying to trick you.</p> <p>11 If you think back to the</p> <p>12 conversations that you had with the Dugaboy</p> <p>13 trustee, did you identify the entity of – did</p> <p>14 you identify who the borrowers were under the</p> <p>15 Notes that were going to be subject to the</p> <p>16 agreements?</p> <p>17 A. She knew they were entities – she</p> <p>18 knew there were other related entities. She</p> <p>19 knew NexPoint for sure. She knew Services.</p> <p>20 I can't sit here as I remember – as</p> <p>21 I sit here today and remember whether or not I</p> <p>22 specifically identified HCRE or not, you know;</p> <p>23 but she knew they were related entities.</p> <p>24 Q. All of the revisions of the</p> <p>25 agreement are set forth in paragraph 82; is</p>

<p>Page 82</p> <p>1 JAMES DONDERO</p> <p>2 that right?</p> <p>3 We could put it back up on the</p> <p>4 screen if you'd like.</p> <p>5 MR. MORRIS: In fact, why don't we</p> <p>6 do that.</p> <p>7 MS. CANTY: I'm sorry, John. 51 –</p> <p>8 I mean, 50?</p> <p>9 MR. MORRIS: I think it's</p> <p>10 Exhibit 31, paragraph 82.</p> <p>11 MS. CANTY: Oh, okay, 82. I've got</p> <p>12 you.</p> <p>13 MR. MORRIS: Thank you.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Does – Mr. Dondero, other than</p> <p>16 specifying who the portfolio companies were,</p> <p>17 does paragraph 82 set forth all of the material</p> <p>18 terms of each of the agreements?</p> <p>19 A. I think it sets forth the conditions</p> <p>20 subsequent.</p> <p>21 Q. Is there any aspect of your</p> <p>22 agreement – withdrawn.</p> <p>23 Is there any aspect of your</p> <p>24 agreements with the Dugaboy trustees that's not</p> <p>25 described in this paragraph?</p>	<p>Page 83</p> <p>1 JAMES DONDERO</p> <p>2 A. I don't know if it's captured in</p> <p>3 there, but there was definitely a conversation,</p> <p>4 discussion that if something like MGM was</p> <p>5 sold – Anchorage is the largest holder almost</p> <p>6 a majority in and of themselves. And if it was</p> <p>7 bought or taken out at a price that we couldn't</p> <p>8 control or couldn't agree with and it was lower</p> <p>9 than cost or – you know, Cornerstone, again,</p> <p>10 had multiple funds between our ownership and</p> <p>11 control that if – if things were sold</p> <p>12 beyond – without my support but sold below</p> <p>13 cost – and I'm not sure that's captured in</p> <p>14 that paragraph, but I think that was part of</p> <p>15 the understanding, also.</p> <p>16 Q. Is there any other part of the</p> <p>17 understanding that's not set forth in</p> <p>18 paragraph 82, Mr. Dondero?</p> <p>19 A. Not that I can think of at this –</p> <p>20 let me read it one more time, please.</p> <p>21 Q. Take your time.</p> <p>22 A. I believe that generally covers it.</p> <p>23 Q. Was any provision of the agreements</p> <p>24 the subject of negotiation?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p>Page 84</p> <p>1 JAMES DONDERO</p> <p>2 form.</p> <p>3 THE WITNESS: I don't believe it was</p> <p>4 materially adjusted by any negotiation. It</p> <p>5 was just clarified based on discussion is</p> <p>6 how I would describe it.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Is there any provision in the</p> <p>9 agreements that was included at your sis- – at</p> <p>10 the Dugaboy trustee's request?</p> <p>11 A. Like I said, there was discussion</p> <p>12 and clarification. Not specifically that I</p> <p>13 recall.</p> <p>14 Q. Okay. Did the Dugaboy trustee</p> <p>15 refuse to include any provision in the</p> <p>16 agreement that you had proposed?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Can you identify any provision of</p> <p>19 the agreements that were the subject of a</p> <p>20 counterproposal that the Dugaboy trustee made?</p> <p>21 A. I remember clarification discussion</p> <p>22 around, you know, three companies versus two or</p> <p>23 one. I remember clarification of monetization</p> <p>24 being turned to cash versus illiquid.</p> <p>25 Yeah. I mean, I remember</p>	<p>Page 85</p> <p>1 JAMES DONDERO</p> <p>2 discussion – I remember clarification</p> <p>3 discussions like that, but I don't remember –</p> <p>4 it was a long time ago. I don't remember the</p> <p>5 details of anything specific like that.</p> <p>6 It wasn't – it wasn't a</p> <p>7 contentious, nor should it have been a</p> <p>8 contentious negotiation.</p> <p>9 Q. How long did – do you recall how</p> <p>10 long each of the conversations lasted that led</p> <p>11 to the entry of each of the three agreements?</p> <p>12 A. I remember the first one being</p> <p>13 longer than the second two, and then I remember</p> <p>14 it being spread out periods of time. So I</p> <p>15 can't – I can't – I can't put an exact</p> <p>16 estimate on it.</p> <p>17 Q. Okay. I'm going to shift gears.</p> <p>18 MR. MORRIS: We can take that down</p> <p>19 now, please.</p> <p>20 MS. CANTY: (Complies with request.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you know of any written agreement</p> <p>23 pursuant to which HCRE provided services to</p> <p>24 Highland at any time?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>

<p>Page 86</p> <p>1 JAMES DONDERO</p> <p>2 form. Asked and answered.</p> <p>3 THE WITNESS: HCRE provided</p> <p>4 preferred services to. Well, the</p> <p>5 participants there in HCRE are, my –</p> <p>6 myself and McGraner. And, you know, we</p> <p>7 both provided significant other services to</p> <p>8 Highland.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Okay. Is that in writing? Is there</p> <p>11 a written agreement?</p> <p>12 That was my question.</p> <p>13 Is there a written agreement</p> <p>14 pursuant to which HCRE ever provided services</p> <p>15 to Highland?</p> <p>16 A. I don't believe so.</p> <p>17 Q. Did HCRE ever provide services to</p> <p>18 Highland?</p> <p>19 A. I would incorporate my last two</p> <p>20 answers. Not under a written agreement, but I</p> <p>21 believe myself and McGraner provided a lot of</p> <p>22 services.</p> <p>23 Q. And what services did you and Mr.</p> <p>24 McGraner provide to Highland?</p> <p>25 A. I'd say anything real estate related</p>	<p>Page 87</p> <p>1 JAMES DONDERO</p> <p>2 on the Highland platform McGraner would have</p> <p>3 input into.</p> <p>4 And then I think my – my portfolio</p> <p>5 management, leadership role in Highland over</p> <p>6 time is well documented.</p> <p>7 Q. And how did you know if you were</p> <p>8 providing services in your capacity as the</p> <p>9 president of Highland or in your capacity as an</p> <p>10 officer or owner of the HCRE at the time you</p> <p>11 provided the services?</p> <p>12 A. Never – never really thought about</p> <p>13 parsing it that way.</p> <p>14 Q. I appreciate that.</p> <p>15 Do you know whether Highland Capital</p> <p>16 Management Services ever provided services to</p> <p>17 Highland?</p> <p>18 A. Yeah.</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form. Asked and answered.</p> <p>21 THE WITNESS: Yeah. I would – not</p> <p>22 in writing. I believe the services owners</p> <p>23 isn't myself and McGraner. I think it was</p> <p>24 myself and Okada.</p> <p>25 And I would say our portfolio and</p>
<p>Page 88</p> <p>1 JAMES DONDERO</p> <p>2 leadership contributions to Highland are</p> <p>3 well documented.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. And my question didn't have anything</p> <p>6 to do with any particular person. It's just</p> <p>7 simply whether Highland Capital Management</p> <p>8 Services ever provided any services to Highland</p> <p>9 Capital Management, L.P.</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: The entities that</p> <p>13 you're describing or you're asking</p> <p>14 questions about don't have employees'</p> <p>15 services in HCRE. They have ownership</p> <p>16 individuals that I've described.</p> <p>17 So I've tried the best I can to</p> <p>18 answer your question and what the ownership</p> <p>19 may have done for Highland.</p> <p>20 But since there's no employee base</p> <p>21 at either of those two companies, those</p> <p>22 companies could not have directly provided</p> <p>23 service to Highland other than, the last</p> <p>24 thing I would bring up is the track-record</p> <p>25 concept, you know, in terms of the</p>	<p>Page 89</p> <p>1 JAMES DONDERO</p> <p>2 performance of whatever assets are in some</p> <p>3 of those start-up entities ends up being a</p> <p>4 useful track record that then Highland can</p> <p>5 market.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Okay. How about NexPoint, did</p> <p>8 NexPoint ever provide services to Highland</p> <p>9 Capital Management, L.P.?</p> <p>10 A. Yes. The real estate – yes. I</p> <p>11 mean, can I just say yes or –</p> <p>12 Q. You could. That would be really</p> <p>13 helpful.</p> <p>14 A. Okay. There we go.</p> <p>15 Q. Can you describe the circumstances</p> <p>16 for me?</p> <p>17 MS. DEITSCH-PEREZ: Finally, some</p> <p>18 accord between the witness and the</p> <p>19 questioner.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Can you describe the services for</p> <p>22 me?</p> <p>23 A. NexPoint has a couple of attorneys</p> <p>24 that are real estate experts. We have a lot of</p> <p>25 different attorneys, or we did at Highland.</p>

<p>Page 90</p> <p>1 JAMES DONDERO</p> <p>2 But prior to the bankruptcy, none of the</p> <p>3 Highland attorneys were experienced in real</p> <p>4 estate.</p> <p>5 So anything that required</p> <p>6 transaction help on the Highland platform</p> <p>7 regarding real estate, the NexPoint real estate</p> <p>8 attorneys would help with.</p> <p>9 Q. Okay. Anything else?</p> <p>10 A. I'm sure there are others. That's</p> <p>11 all I can think of off the top of my head. I</p> <p>12 just wanted to give you an example.</p> <p>13 Q. I appreciate that.</p> <p>14 You're aware that Highland has sued</p> <p>15 HCMFA to collect on two notes that were signed</p> <p>16 by Frank Waterhouse in 2019 in the aggregate</p> <p>17 amount of \$7.4 million; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And we actually went through</p> <p>20 this the other day, so I don't want to belabor</p> <p>21 it if I don't have.</p> <p>22 But do you recall that we saw the</p> <p>23 incumbency certificate which identified</p> <p>24 Mr. Waterhouse as the treasurer of HCMFA as of</p> <p>25 April 2019?</p>	<p>Page 91</p> <p>1 JAMES DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And do you recall that you</p> <p>4 signed that incumbency certify in your capacity</p> <p>5 as president of HCMFA?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 THE WITNESS: Yes.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. I want to talk about the first of</p> <p>11 the two Notes, the \$2.4 million Note.</p> <p>12 Do you recall that in early May</p> <p>13 2019, Highland transferred \$2.4 million to</p> <p>14 HCMFA?</p> <p>15 A. I don't remember a lot of specifics,</p> <p>16 but I know there were two Notes as you're</p> <p>17 describing.</p> <p>18 Q. Okay. And there was -- and one of</p> <p>19 them -- did you authorize the \$2.4-million</p> <p>20 payment?</p> <p>21 A. Yes.</p> <p>22 Q. And why did you authorize Highland</p> <p>23 to transfer \$2.4 million to HCMFA in early May</p> <p>24 2019?</p> <p>25 A. My answer's the same for both --</p>
<p>Page 92</p> <p>1 JAMES DONDERO</p> <p>2 both Notes. Essentially, it's regarding the</p> <p>3 terrace start issue that we had with the</p> <p>4 Fort Worth SEC.</p> <p>5 Q. Did you give anyone instructions</p> <p>6 concerning the transfer of the \$2.4 million?</p> <p>7 A. I instructed them to make the</p> <p>8 transfer, or I was involved in the -- involved</p> <p>9 in approving the transfer.</p> <p>10 Q. And who did you instruct to make the</p> <p>11 transfer of \$2.4 million?</p> <p>12 A. Yeah. It would have been Frank.</p> <p>13 Q. Do you have a recollection of</p> <p>14 instructing Frank to transfer \$2.4 million?</p> <p>15 A. Yeah. Generally, yes.</p> <p>16 Q. Do you have a recollection of what</p> <p>17 instructions you gave him?</p> <p>18 A. It was well-known. It was a very</p> <p>19 disruptive -- the whole thing was very</p> <p>20 disruptive at Highland and HCMFA. Everybody</p> <p>21 was aware of it. The settlement, the</p> <p>22 negotiations around the settlement, the</p> <p>23 give-and-take, the amounts changed over time.</p> <p>24 Everybody was aware of it in senior</p> <p>25 management, including myself. And putting the</p>	<p>Page 93</p> <p>1 JAMES DONDERO</p> <p>2 money into HCMFA to settle it was something I</p> <p>3 was aware of and authorized and a critical</p> <p>4 piece of putting that issue to bed.</p> <p>5 Q. Okay. I'm just asking you if you</p> <p>6 recall what instructions you gave to</p> <p>7 Mr. Waterhouse concerning the transfer if you</p> <p>8 recall?</p> <p>9 A. No. I mean, like I said, I</p> <p>10 authorized the movement of the money.</p> <p>11 Q. Okay. Were you aware at that time</p> <p>12 that the transfer of the \$2.4 million from</p> <p>13 Highland to HCMFA was booked as a loan on both</p> <p>14 Highland and HCMFA's books and records?</p> <p>15 A. I was not aware at the time.</p> <p>16 Q. Okay.</p> <p>17 MR. MORRIS: Can we put up</p> <p>18 Exhibit 53 please.</p> <p>19 THE VIDEOGRAPHER: Counsel, I will</p> <p>20 need a media break in about five minutes.</p> <p>21 MR. MORRIS: Thank you very much.</p> <p>22 Why don't we take that right now before I</p> <p>23 begin my examination on this document. How</p> <p>24 long do you need?</p> <p>25 THE VIDEOGRAPHER: It will just be a</p>

<p style="text-align: right;">Page 94</p> <p>1 JAMES DONDERO</p> <p>2 minute, but this is the end of Media Number</p> <p>3 1.</p> <p>4 MR. MORRIS: Okay.</p> <p>5 THE VIDEOGRAPHER: We are off the</p> <p>6 record at 3:21.</p> <p>7 MR. MORRIS: We are off the record,</p> <p>8 but don't go anywhere.</p> <p>9 MS. DEITSCH-PEREZ: What?</p> <p>10 MR. MORRIS: We're not taking a</p> <p>11 break.</p> <p>12 THE VIDEOGRAPHER: Yep. This will</p> <p>13 just take a minute. Please stand by.</p> <p>14 MR. MORRIS: Thank you.</p> <p>15 THE VIDEOGRAPHER: All right.</p> <p>16 Suzanne, are you good to go?</p> <p>17 THE COURT REPORTER: I'm good.</p> <p>18 THE VIDEOGRAPHER: This is the</p> <p>19 beginning of Media Number 2, Volume II</p> <p>20 [sic] in the deposition of James Dondero.</p> <p>21 We are back on the record at 3:22.</p> <p>22 MR. MORRIS: All right. Can we</p> <p>23 please put up Exhibit 53.</p> <p>24 MS. CANTY: Yeah. Just one second.</p> <p>25 My computer went haywire. Give me one</p>	<p style="text-align: right;">Page 95</p> <p>1 JAMES DONDERO</p> <p>2 minute.</p> <p>3 (Whereupon, Exhibit 53, E-mail</p> <p>4 correspondence, Bates stamped D-CNL003768</p> <p>5 through D-CNL003770, marked for</p> <p>6 identification, as of this date.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. So Mr. Dondero, do you see</p> <p>9 what's on the screen here?</p> <p>10 Mr. Dondero?</p> <p>11 MR. MORRIS: Deborah?</p> <p>12 Apparently Mr. Dondero has left the</p> <p>13 seat.</p> <p>14 THE VIDEOGRAPHER: Would you like to</p> <p>15 go off record?</p> <p>16 MR. MORRIS: No.</p> <p>17 THE VIDEOGRAPHER: Okay. We'll stay</p> <p>18 on the record.</p> <p>19 MR. MORRIS: The video is still</p> <p>20 rolling, right, sir?</p> <p>21 THE VIDEOGRAPHER: Yes, it is.</p> <p>22 MR. MORRIS: Thank you.</p> <p>23 Hi, Michael. If you're – if you're</p> <p>24 able, can you reach out to your partner?</p> <p>25 MR. AIGEN: I had texted her. I</p>
<p style="text-align: right;">Page 96</p> <p>1 JAMES DONDERO</p> <p>2 will try to call her, too; but I did text</p> <p>3 her a couple of minutes ago. I will try to</p> <p>4 reach out again. Hold on.</p> <p>5 MS. DEITSCH-PEREZ: I'm back. I'm</p> <p>6 lucky in that the ladies room is directly</p> <p>7 across from the conference room.</p> <p>8 Mr. Dondero's down at the other end</p> <p>9 of the floor, so he will be back shortly.</p> <p>10 And I just saw your note, John. The</p> <p>11 – the videographer said he needed a break;</p> <p>12 and you said, okay, then let's take our</p> <p>13 break now. So we took a restroom break.</p> <p>14 MR. MORRIS: I think everybody on</p> <p>15 the phone – and there's a transcript of it</p> <p>16 – knows that I specifically said, how long</p> <p>17 do you need. He said one minute, and I</p> <p>18 said don't go anywhere.</p> <p>19 This is your time, not mine.</p> <p>20 MS. DEITSCH-PEREZ: Prior to that,</p> <p>21 you said, let's take the break now.</p> <p>22 MR. MORRIS: Yeah, to allow him to</p> <p>23 change the tape. I'm not going to question</p> <p>24 anybody on the call, but I'm 100 percent</p> <p>25 certain that they would all tell you – and</p>	<p style="text-align: right;">Page 97</p> <p>1 JAMES DONDERO</p> <p>2 the record will reflect, I specifically</p> <p>3 said do not leave.</p> <p>4 MS. DEITSCH-PEREZ: Okay.</p> <p>5 Mr. Dondero is back.</p> <p>6 You have to turn – turn the video</p> <p>7 on.</p> <p>8 THE WITNESS: I'm back.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. All right. Do you see on the screen</p> <p>11 there's a document that's been marked as</p> <p>12 Exhibit 53?</p> <p>13 A. Yup.</p> <p>14 Q. Do you see there's an e-mail string</p> <p>15 dated May 2, 2019?</p> <p>16 A. Yes.</p> <p>17 Q. And do you see that Mr. Waterhouse</p> <p>18 has – if you look at the second to the top,</p> <p>19 Mr. Waterhouse's e-mail is forwarding a</p> <p>20 spreadsheet to David Klos and Kristin Hendrix</p> <p>21 that he described as, quote, "The support for</p> <p>22 the payment to GAF by HCMFA?"</p> <p>23 A. Yes.</p> <p>24 Q. What's GAF?</p> <p>25 A. That's the fund itself that owned</p>

<p>Page 98</p> <p>1 JAMES DONDERO</p> <p>2 the TerreStar investment. The SEC wanted, I</p> <p>3 believe, some payment to go to them; but they</p> <p>4 all, meaning the SEC, and the SEC wanted some</p> <p>5 payment to go to the fund itself for the</p> <p>6 benefit of the investors.</p> <p>7 Q. Okay.</p> <p>8 MR. MORRIS: Can we can to the chart</p> <p>9 that's attached.</p> <p>10 MS. CANTY: (Complies with request.)</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Have you ever seen this chart</p> <p>13 before, sir?</p> <p>14 A. I don't believe so specifically, but</p> <p>15 I understand what it is.</p> <p>16 Q. And is it your understanding, based</p> <p>17 on this chart, that the loss to the fund was</p> <p>18 \$6,068,851?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. And there's -- there's a column</p> <p>24 there that's lost to fund.</p> <p>25 Do you see that?</p>	<p>Page 99</p> <p>1 JAMES DONDERO</p> <p>2 A. Yes.</p> <p>3 Q. And is it -- is it consistent with</p> <p>4 your recollection that the estimated loss of</p> <p>5 the fund or to the fund was approximately</p> <p>6 \$6 million?</p> <p>7 A. Yes. There is approximately --</p> <p>8 there's some other small numbers moving around,</p> <p>9 but yes.</p> <p>10 Q. Okay. And do you recall that HCMFA</p> <p>11 informed the SEC that HCMFA would make the fund</p> <p>12 whole by paying it an amount of money equal to</p> <p>13 the loss?</p> <p>14 A. Yes.</p> <p>15 Q. And, in fact, HCMFA paid the fund</p> <p>16 approximately \$6 million in connection with the</p> <p>17 losses sustained as a result of the NAV error,</p> <p>18 correct?</p> <p>19 A. I don't know details like that.</p> <p>20 Q. So you're not -- you're not aware of</p> <p>21 the fact that HCMFA paid to the fund</p> <p>22 approximately \$6 million in May of 2019?</p> <p>23 A. Approximately six or approximately</p> <p>24 seven. I -- I don't know. Whatever the</p> <p>25 agreement was with the SEC to be paid to them</p>
<p>Page 100</p> <p>1 JAMES DONDERO</p> <p>2 or to the fund or whatever, I -- I have all</p> <p>3 faith and confidence we complied with; but I</p> <p>4 don't -- I don't know the exact numbers. I'm</p> <p>5 not aware of the exact numbers.</p> <p>6 Q. Do you understand that this analysis</p> <p>7 shows how HCMFA was going to finance the</p> <p>8 payment to the fund as a result of the NAV</p> <p>9 error?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: I'm sorry. Could you</p> <p>13 repeat that question again?</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Sure. Do you understand that</p> <p>16 this -- that this chart here sets forth the</p> <p>17 manner in which HCMFA is going to fund the</p> <p>18 payment that it was making to GAF on account of</p> <p>19 the NAV error?</p> <p>20 A. I would call it more of a</p> <p>21 calculation on where the amounts are coming</p> <p>22 from. It doesn't appear to me that this is a</p> <p>23 funding statement.</p> <p>24 Q. Okay. I appreciate that.</p> <p>25 So -- so your interpretation of this</p>	<p>Page 101</p> <p>1 JAMES DONDERO</p> <p>2 is that this shows the sources of money that</p> <p>3 were going to be used to make the payment; is</p> <p>4 that fair?</p> <p>5 MS. DEITSCH-PEREZ: Objection to the</p> <p>6 form.</p> <p>7 THE WITNESS: Yeah. I think it's a</p> <p>8 reconciliation between the insurance, some</p> <p>9 forgiveness of fees, and then additional</p> <p>10 monies that are necessary.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Okay. And --</p> <p>13 A. Yeah. Go ahead.</p> <p>14 Q. Did HCMFA file an insurance claim in</p> <p>15 connection with the NAV error?</p> <p>16 A. I believe they did get -- I believe</p> <p>17 they did, and I believe they did get paid some</p> <p>18 insurance.</p> <p>19 Q. And -- and if we look at the totals</p> <p>20 column in the right, did HCMFA receive, to the</p> <p>21 best of your recollection, approximately</p> <p>22 \$5 million from insurance?</p> <p>23 A. Yes. I think we should work -- I</p> <p>24 think we should work from that column --</p> <p>25 Q. Okay. So let's --</p>

<p>Page 102</p> <p>1 JAMES DONDERO</p> <p>2 A. -- versus the other column, yeah.</p> <p>3 Q. I apologize, Mr. Dondero.</p> <p>4 So if we look at the last column,</p> <p>5 the total, does that comport with your</p> <p>6 recollection that HCMFA paid GAF approximately</p> <p>7 \$7.44 million in May of 2019 on account of the</p> <p>8 NAV error?</p> <p>9 A. I think it's more than that, and I</p> <p>10 think it's also the 375 below that.</p> <p>11 Q. Okay.</p> <p>12 A. And then I -- yeah, definitely those</p> <p>13 two numbers in aggregate. I don't know if it's</p> <p>14 any others.</p> <p>15 Q. Okay. And did, to the best of your</p> <p>16 recollection, HCMFA make an insurance claim on</p> <p>17 which it received almost \$5 million as a source</p> <p>18 of funding for the payment that was due to GAF?</p> <p>19 A. Yes.</p> <p>20 Q. Are you familiar with that insurance</p> <p>21 claim?</p> <p>22 A. No.</p> <p>23 Q. Do you know if the insurance claim</p> <p>24 made any mention of Highland?</p> <p>25 A. I have no idea. I have no idea.</p>	<p>Page 103</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay. So as a -- as a matter of</p> <p>3 rough math, would you agree with me that the</p> <p>4 insurance procedures funded approximately</p> <p>5 5 million of the \$7.8 million that was the</p> <p>6 total loss?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: This was the amount</p> <p>10 due to the investors. I -- I -- my rough</p> <p>11 recollection is there was another amount</p> <p>12 that was due the SEC, but I don't remember</p> <p>13 specifically.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Okay. And do you see in the middle</p> <p>16 of the page, there's a total additional payment</p> <p>17 from advisor of approximately \$2.4 million?</p> <p>18 A. Yes.</p> <p>19 Q. And is it your understanding that</p> <p>20 that is the amount that HCMFA had to come out</p> <p>21 of pocket in order to fully fund the GAF</p> <p>22 payment?</p> <p>23 A. Yes, but it's clear to me also that</p> <p>24 there's a forgiveness of management fees, also.</p> <p>25 Q. Okay. But is two point -- but is</p>
<p>Page 104</p> <p>1 JAMES DONDERO</p> <p>2 \$2.4 million the amount of money that HCMFA</p> <p>3 needed in order to fully fund the payment to</p> <p>4 GAF?</p> <p>5 A. And I don't want to mince small</p> <p>6 numbers; but to the extent that they gave up</p> <p>7 their management fees also, like that 1939 or</p> <p>8 the 39 above that -- and I don't know what that</p> <p>9 47 is above that -- those are management fees</p> <p>10 that would have paid salaries and expenses at</p> <p>11 HCMFA also.</p> <p>12 So to the extent they gave up those</p> <p>13 items as part of the settlement, then HCMFA</p> <p>14 would have needed more money than even the 2.4</p> <p>15 that came from Highland.</p> <p>16 Q. Do you know if HCMFA ever informed</p> <p>17 the SEC that Highland was responsible for the</p> <p>18 NAV error?</p> <p>19 A. I -- I don't know. We wouldn't have</p> <p>20 hidden it if they would have asked. My</p> <p>21 experience with the SEC is they identify the</p> <p>22 advisor; and who the advisor picks for vendors</p> <p>23 the advisor's responsible for.</p> <p>24 MR. MORRIS: I move to strike</p> <p>25 everything after "I don't know."</p>	<p>Page 105</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Did you ever direct anyone to inform</p> <p>4 the SEC that Highland was responsible for the</p> <p>5 NAV error?</p> <p>6 A. No, not that I recall.</p> <p>7 Q. Do you know if anybody acting on</p> <p>8 behalf of HCMFA ever informed the SEC that</p> <p>9 Highland was responsible for the NAV error?</p> <p>10 A. I don't know.</p> <p>11 Q. Do you know if HCMFA ever informed</p> <p>12 GAF that Highland was responsible for the NAV</p> <p>13 error?</p> <p>14 A. Yes.</p> <p>15 Q. And is that reflected in writing</p> <p>16 anywhere?</p> <p>17 A. Yes. Numerous places.</p> <p>18 Q. And what writing would that be</p> <p>19 reflected in?</p> <p>20 A. The board minutes. There were</p> <p>21 conversations every board meeting for over a</p> <p>22 year. The retail board represents GAF. They</p> <p>23 were well aware of the subadvisory agreements,</p> <p>24 and they were well aware that all the staff</p> <p>25 regarding valuation were housed at Highland;</p>

<p>Page 106</p> <p>1 JAMES DONDERO</p> <p>2 all the valuation activities were performed by</p> <p>3 Highland. And GAF and HCMFA relied on</p> <p>4 Highland, and it was a material part of board</p> <p>5 conversations for over a year.</p> <p>6 MR. MORRIS: Okay. I move to</p> <p>7 strike.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. I'm asking you just about writings,</p> <p>10 sir.</p> <p>11 Can you identify –</p> <p>12 A. No, no, no. I'm not – I'm not</p> <p>13 going to – I'm not going to allow that strike,</p> <p>14 or I'm not answering anymore questions.</p> <p>15 Q. Well, the judge will be the</p> <p>16 determiner of that. So I'd like you to answer</p> <p>17 my question.</p> <p>18 Is there any – I don't want to know</p> <p>19 about board meetings.</p> <p>20 Is there anything in writing that</p> <p>21 HCMFA provided to GAF that specifically stated</p> <p>22 that Highland and not HCMFA was responsible for</p> <p>23 the NAV error?</p> <p>24 MS. DEITSCH-PEREZ: Asked and</p> <p>25 answered.</p>	<p>Page 107</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: Yes. Numerous board</p> <p>3 minutes.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Okay. And have those board minutes</p> <p>6 been produced in this litigation?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay.</p> <p>9 MR. MORRIS: Let's go to the next</p> <p>10 exhibit, 54.</p> <p>11 MS. CANTY: (Complies with request.)</p> <p>12 (Whereupon, Exhibit 54, E-mail</p> <p>13 correspondence, Bates stamped D-CNL003777</p> <p>14 through D-CNL003779, marked for</p> <p>15 identification, as of this date.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Do you see that on the same day, at</p> <p>18 the bottom, Mr. Klos sent an e-mail to the</p> <p>19 Corporate Accounting Group?</p> <p>20 A. Yes.</p> <p>21 Q. And do you see that he instructed</p> <p>22 the Corporate Accounting Group to transfer</p> <p>23 \$2.4 million from HCMFA to HCMFA?</p> <p>24 A. Yes.</p> <p>25 Q. And do you see that he specifically</p>
<p>Page 108</p> <p>1 JAMES DONDERO</p> <p>2 informed the Corporate Accounting Group that</p> <p>3 this transaction was a, quote, "New inter</p> <p>4 co-loan?</p> <p>5 A. Yes.</p> <p>6 Q. Do you see that he asked</p> <p>7 Christian – Kristin or Hayley to prepare a</p> <p>8 Promissory Note for discussion?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Are you aware in May 2019,</p> <p>11 Frank Waterhouse was included in the e-mail</p> <p>12 string identified as Corporate Accounting?</p> <p>13 A. I do not have that awareness.</p> <p>14 Q. Okay. Do you see at the top</p> <p>15 Ms. Hendrix – Ms. Hendrix's response to</p> <p>16 Mr. Klos's e-mail and attaches a copy of a</p> <p>17 Promissory Note?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 MR. MORRIS: Can we just go to the</p> <p>21 attachment, please.</p> <p>22 MS. CANTY: (Complies with request.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Do you see that that is a Promissory</p> <p>25 Note dated May 2, 2019, in the amount of</p>	<p>Page 109</p> <p>1 JAMES DONDERO</p> <p>2 \$2.4 million that where the maker is Highland</p> <p>3 Capital Management Fund Advisors, L.P.?</p> <p>4 A. Yeah.</p> <p>5 Q. Have you ever seen this before?</p> <p>6 A. I think in our last deposition.</p> <p>7 Q. Okay. Do you recall when you saw it</p> <p>8 for the first time?</p> <p>9 A. Our last deposition.</p> <p>10 Q. Do you recall when you learned about</p> <p>11 the existence of this document for the first</p> <p>12 time?</p> <p>13 A. I believe somehow regarding the</p> <p>14 litigation.</p> <p>15 Q. Okay. So you have no knowledge of</p> <p>16 this Promissory Note until after the litigation</p> <p>17 was commenced; do I have that right?</p> <p>18 A. Correct.</p> <p>19 Q. So you're not aware of Highland</p> <p>20 having made a demand for payment on this</p> <p>21 Promissory Note in December of 2020?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Okay. Putting aside the question of</p> <p>24 the Promissory Note, do you recall when you</p> <p>25 first learned that the \$2.4 million that you</p>

<p>Page 110</p> <p>1 JAMES DONDERO</p> <p>2 instructed to be paid to HCMFA by Highland in</p> <p>3 May of 2019, do you recall when you first</p> <p>4 learned that that was booked as a loan?</p> <p>5 A. I believe just generally as part of</p> <p>6 this litigation, not before then.</p> <p>7 Q. Are you aware that the Corporate</p> <p>8 Accounting Group created a daily list of wire</p> <p>9 transfers that were being made on behalf of</p> <p>10 Highland and its affiliates?</p> <p>11 A. Not – no, not specifically.</p> <p>12 Q. Okay. So since you did not know</p> <p>13 that the \$2.4 million transfer had been booked</p> <p>14 as a loan, is it fair to say that you never</p> <p>15 told anybody prior to the commencement of this</p> <p>16 litigation that the transaction should not have</p> <p>17 been booked as a loan?</p> <p>18 A. I had no conversations either way</p> <p>19 prior to this litigation regarding the booking</p> <p>20 of the 2.4 million.</p> <p>21 Q. Did you ever take any steps to try</p> <p>22 to determine how Highland and HCMFA accounted</p> <p>23 for the \$2.4 million that you instructed to be</p> <p>24 transferred from Highland to HCMFA in early</p> <p>25 May 2019?</p>	<p>Page 111</p> <p>1 JAMES DONDERO</p> <p>2 A. No.</p> <p>3 Q. Did you rely on Mr. Waterhouse to</p> <p>4 oversee that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And you did so because he</p> <p>7 held not only the CFO title at Highland, but he</p> <p>8 also held the treasurer title at HCMFA,</p> <p>9 correct?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 THE WITNESS: I relied on him</p> <p>13 because generally the accounting function</p> <p>14 across the organization reported up through</p> <p>15 him.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Let's talk about the \$5 million</p> <p>18 Note.</p> <p>19 Do you recall that in early</p> <p>20 May 2019, in fact, the next day, May 3rd,</p> <p>21 Highland transferred \$5 million to HCMFA?</p> <p>22 A. I – I don't recall specifically.</p> <p>23 Q. Do you recall authorizing the</p> <p>24 transfer of \$5 million from Highland to HCMFA</p> <p>25 in early May 2019?</p>
<p>Page 112</p> <p>1 JAMES DONDERO</p> <p>2 A. Yes, generally.</p> <p>3 Q. Okay. Why did you authorize</p> <p>4 Highland to transfer \$5 million to HCMFA in</p> <p>5 early 2019?</p> <p>6 A. It was part of the overall</p> <p>7 resolution of the TerreStar situation.</p> <p>8 Q. Do you recall that HCMFA paid</p> <p>9 something called a consent fee equal to</p> <p>10 \$5 million in early May 2019?</p> <p>11 A. Well, like I said, I don't recall</p> <p>12 the exact amounts or the exact amounts net of</p> <p>13 insurance; but my recollection it was to</p> <p>14 resolve that.</p> <p>15 Q. Do you know – do you know – did –</p> <p>16 let's real simple.</p> <p>17 Did – did HCMFA pay a consent fee</p> <p>18 in May of 2019?</p> <p>19 A. I – I don't recall.</p> <p>20 Q. Do you know what a consent fee is?</p> <p>21 A. Yes.</p> <p>22 Q. What's a consent fee?</p> <p>23 A. It's a – a fee to encourage</p> <p>24 shareholder vote on something or shareholder</p> <p>25 restitution on something, typically.</p>	<p>Page 113</p> <p>1 JAMES DONDERO</p> <p>2 Q. And did – do you recall if HCMFA</p> <p>3 ever paid a consent fee in the year 2019?</p> <p>4 A. I don't recall.</p> <p>5 Q. Would Highland be responsible at all</p> <p>6 if HCMFA paid a consent fee?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: It could be. I</p> <p>10 don't – I don't know or remember the</p> <p>11 circumstances.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Is the payment of a consent fee a</p> <p>14 voluntary decision by – by HCMFA? Is that</p> <p>15 something that –</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 MR. MORRIS: Is that – withdrawn.</p> <p>19 That's fair.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. Is the payment of a consent fee</p> <p>22 required, or is that something that one can</p> <p>23 exercise discretion in whether or not to make?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>

<p>Page 114</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: My answer would be it</p> <p>3 depends.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Do you recall whether Highland –</p> <p>6 withdrawn.</p> <p>7 Do you recall whether HCMFA was</p> <p>8 required to make – to make a – to pay a</p> <p>9 consent fee at any time in 2019?</p> <p>10 A. I don't recall.</p> <p>11 Q. Do you recall ever believing that</p> <p>12 HCMFA paid a consent fee because of something</p> <p>13 that – because of a mistake that Highland</p> <p>14 made?</p> <p>15 A. It could be. I don't know.</p> <p>16 Q. I'm just asking if you had a</p> <p>17 recollection?</p> <p>18 A. I don't have a recollection.</p> <p>19 Q. Okay.</p> <p>20 MR. MORRIS: To the videographer, I</p> <p>21 think Mr. Dondero's screen has frozen.</p> <p>22 MS. DEITSCH-PEREZ: John, your</p> <p>23 screen is frozen, too.</p> <p>24 MR. MORRIS: I'm –</p> <p>25 MS. DEITSCH-PEREZ: I'm also – hang</p>	<p>Page 115</p> <p>1 JAMES DONDERO</p> <p>2 on. I've lost contact. Give me a minute.</p> <p>3 THE VIDEOGRAPHER: Okay. I'd like</p> <p>4 us to go off record. Do you agree?</p> <p>5 MR. MORRIS: Yeah, but please don't</p> <p>6 leave.</p> <p>7 MS. DEITSCH-PEREZ: Yes, we agree.</p> <p>8 THE VIDEOGRAPHER: All right. Off</p> <p>9 the record at 3:53.</p> <p>10 (Discussion held off the record.)</p> <p>11 THE VIDEOGRAPHER: We are back on</p> <p>12 the record at 3:54.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Okay. Can we put up – no. Before</p> <p>15 we do that, Mr. Dondero, can you hear me?</p> <p>16 We can't hear you. Are you on mute?</p> <p>17 Are you on mute? Can you speak?</p> <p>18 You're yelling at me now. Stop</p> <p>19 yelling at me.</p> <p>20 THE VIDEOGRAPHER: I'm seeing is</p> <p>21 that Mr. Dondero is on mute.</p> <p>22 (Interruption.)</p> <p>23 THE VIDEOGRAPHER: We've got – do</p> <p>24 you want to go off video record?</p> <p>25 MR. MORRIS: No.</p>
<p>Page 116</p> <p>1 JAMES DONDERO</p> <p>2 Can somebody help Mr. Dondero and</p> <p>3 get his audio feed fixed?</p> <p>4 Thank you, sir.</p> <p>5 MS. DEITSCH-PEREZ: Does this make a</p> <p>6 difference?</p> <p>7 MR. MORRIS: It sure does.</p> <p>8 THE WITNESS: Hello, hello.</p> <p>9 THE MORRIS: Thank you. All right.</p> <p>10 Let's try and – let's try and finish this</p> <p>11 up.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Are you ready, sir?</p> <p>14 A. Yes.</p> <p>15 Q. Were you aware in May 2019 that the</p> <p>16 \$5-million transfer from Highland to HCMFA was</p> <p>17 booked as a loan?</p> <p>18 A. No.</p> <p>19 MR. MORRIS: Can we put up</p> <p>20 Exhibit 56, please.</p> <p>21 MS. CANTY: (Complies with request.)</p> <p>22 (Whereupon, Exhibit 56, E-mail</p> <p>23 correspondence, Bates stamped D-CNL003763,</p> <p>24 marked for identification, as of this</p> <p>25 date.)</p>	<p>Page 117</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. All right. Do you see that this is</p> <p>4 an e-mail from Ms. Hendrix to the Corporate</p> <p>5 Accounting Group on May 3, 2019?</p> <p>6 Do you see that, sir?</p> <p>7 A. Yes.</p> <p>8 Q. And do you see that Ms. Hendrix told</p> <p>9 corporate accounting to transfer \$5 million as</p> <p>10 a, quote, "new loan," close quote?</p> <p>11 A. Yes.</p> <p>12 Q. And did you see Ms. Hendrix also</p> <p>13 said that she would, quote, "paper the loan,"</p> <p>14 close quote?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. You're aware that from time</p> <p>17 to time, members of the Corporate Accounting</p> <p>18 Group used a template for a Promissory Note</p> <p>19 that had been previously prepared by counsel,</p> <p>20 correct?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 THE WITNESS: I – yeah. I'm aware</p> <p>24 they have a loan template, yes.</p> <p>25</p>

<p>Page 118</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Okay. Do you see there's a</p> <p>4 parenthetical in the first sentence that says,</p> <p>5 "(4.4M should be coming in from Jim soon)"?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know what that refers to?</p> <p>8 A. My – my educated – boy. My</p> <p>9 educated speculation is that Highland didn't</p> <p>10 have enough cash, so I probably put four into</p> <p>11 Highland for Highland to send to HCMFA. That's</p> <p>12 my educated guess; but otherwise, I don't know</p> <p>13 specifically.</p> <p>14 Q. And do you recall that you had taken</p> <p>15 out a loan from Highland earlier in the year,</p> <p>16 and this payment was credited against the</p> <p>17 principal and interest then due on that Note?</p> <p>18 A. I don't have specific awareness.</p> <p>19 That would make sense.</p> <p>20 Q. Okay.</p> <p>21 A. Versus – versus creating a new loan</p> <p>22 or something.</p> <p>23 Q. Okay.</p> <p>24 MR. MORRIS: Let's go to Exhibit 57,</p> <p>25 please.</p>	<p>Page 119</p> <p>1 JAMES DONDERO</p> <p>2 MS. CANTY: (Complies with request.)</p> <p>3 (Whereupon, Exhibit 57, Promissory</p> <p>4 Note, Bates stamped D-CNL003764 through</p> <p>5 D-CNL003765, marked for identification, as</p> <p>6 of this date.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. In fact, were you aware, sir, that</p> <p>9 in May 2019, you paid Highland exactly</p> <p>10 \$7.5 million?</p> <p>11 A. Not specifically, but it makes sense</p> <p>12 given the context we're discussing.</p> <p>13 Q. Okay. So the context that we're</p> <p>14 discussing was HCMFA needed \$7.5 million.</p> <p>15 Highland didn't have it. So that seven – you</p> <p>16 paid \$7.5 million to Highland, which was</p> <p>17 applied against your outstanding note. And</p> <p>18 then Highland transferred that money to HCMFA.</p> <p>19 Does that sound right to you?</p> <p>20 A. Generally, yes.</p> <p>21 Q. Okay. So now if we look at this</p> <p>22 note that's on the screen, do you see this is a</p> <p>23 Promissory Note for \$5 million dated May 3,</p> <p>24 2019?</p> <p>25 A. Yes.</p>
<p>Page 120</p> <p>1 JAMES DONDERO</p> <p>2 Q. And did you see this for the first</p> <p>3 time when I showed it to you late last week?</p> <p>4 A. Yes.</p> <p>5 Q. And did you learn about the loan</p> <p>6 from Highland to HCMFA for the first time after</p> <p>7 the litigation was commenced?</p> <p>8 A. That's the first time I remember.</p> <p>9 Q. And did you learn that Highland and</p> <p>10 HCMFA had booked the \$5-million transfer in May</p> <p>11 of 2019 as a loan for the first time after the</p> <p>12 litigation was commenced?</p> <p>13 A. That is my recollection.</p> <p>14 Q. Okay. We talked at your first</p> <p>15 deposition in May about Highland's audited</p> <p>16 financial statements.</p> <p>17 I don't know if you have a</p> <p>18 recollection of that. Do you?</p> <p>19 A. Just generally, yes.</p> <p>20 Q. Okay. I just want to focus on these</p> <p>21 two notes.</p> <p>22 For this portion of the deposition,</p> <p>23 we are questioning you in your individual</p> <p>24 capacity, and you're only focused on these two</p> <p>25 notes from HCMFA to Highland, okay?</p>	<p>Page 121</p> <p>1 JAMES DONDERO</p> <p>2 A. Okay.</p> <p>3 Q. Okay. When did you first learn that</p> <p>4 these notes were carried as assets on</p> <p>5 Highland's balance sheet?</p> <p>6 A. Like I said, I – my recollection is</p> <p>7 that as part of the bankruptcy and part of the</p> <p>8 litigation.</p> <p>9 Q. And so did you learn of it as part</p> <p>10 of the bankruptcy before the litigation was</p> <p>11 commenced, or did you learn that these notes</p> <p>12 were carried as assets after – only after the</p> <p>13 litigation was commenced?</p> <p>14 A. I believe only after. Especially,</p> <p>15 the specificity with regard to the notes, only</p> <p>16 after the litigation was commenced.</p> <p>17 Q. Okay. When did you learn for the</p> <p>18 first time that these notes were carried as</p> <p>19 liabilities on HCMFA's balance sheet?</p> <p>20 Withdrawn. No foundation.</p> <p>21 Are you aware that these notes have</p> <p>22 been carried as liabilities on HCMFA's balance</p> <p>23 sheet?</p> <p>24 A. I wasn't – I wasn't – I wasn't</p> <p>25 aware prior to the litigation.</p>

<p>Page 122</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay. Did you learn after the</p> <p>3 litigation that these notes had been carried as</p> <p>4 liabilities on HCMFA's balance sheets?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Did you ever review</p> <p>7 Highland's audited financial statements?</p> <p>8 A. Not with any specificity.</p> <p>9 Q. Are you aware that Highland gave</p> <p>10 these Promissory Notes to PWC as part of the</p> <p>11 audit process?</p> <p>12 A. I would assume they did, but I don't</p> <p>13 have specific awareness.</p> <p>14 Q. Okay. And why do you assume that</p> <p>15 they did?</p> <p>16 A. As part of complete financials to</p> <p>17 the extent that they were made by Kristin or</p> <p>18 whoever, properly or improperly. Once they</p> <p>19 existed, they would have been part of a</p> <p>20 complete audit.</p> <p>21 Q. Are you aware that these two</p> <p>22 Promissory Notes were disclosed in Highland's</p> <p>23 audited financial statements for the period</p> <p>24 ending December 31, 2018, as subsequent events?</p> <p>25 A. No.</p>	<p>Page 123</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay.</p> <p>3 MR. MORRIS: Can we put up</p> <p>4 Exhibit 34, please.</p> <p>5 MS. CANTY: (Complies with request.)</p> <p>6 (Whereupon, Exhibit 34, Highland</p> <p>7 Capital Management, L.P., Consolidated</p> <p>8 Financial Statements and Supplemental</p> <p>9 Information, dated December 31, 2018, Bates</p> <p>10 stamped D-CNL000212 through D-CNL000257,</p> <p>11 marked for identification, as of this</p> <p>12 date.)</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. And turn to – just if you can see,</p> <p>15 sir, the first page of this is the December 31,</p> <p>16 2018, financials.</p> <p>17 MR. MORRIS: And if we could go to</p> <p>18 the second or third page to see</p> <p>19 PricewaterhouseCoopers' signature.</p> <p>20 MS. CANTY: (Complies with request.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. And do you see that</p> <p>23 PricewaterhouseCoopers signed off on the audit</p> <p>24 on June 3, 2019?</p> <p>25 A. Yes.</p>
<p>Page 124</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay.</p> <p>3 MR. MORRIS: Can we go to page 252</p> <p>4 of the document? It's got to be – let's</p> <p>5 see the Bates.</p> <p>6 MS. CANTY: (Complies with request.)</p> <p>7 MR. MORRIS: Yeah. Right there.</p> <p>8 Okay. Scroll just to the page before so we</p> <p>9 can see the heading.</p> <p>10 MS. CANTY: (Complies with request.)</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Okay. Do you see that this is the</p> <p>13 section of the audited financials entitled</p> <p>14 "Subsequent Events"?</p> <p>15 A. Yes.</p> <p>16 Q. And is it your understanding that</p> <p>17 the auditors include in subsequent events</p> <p>18 material transactions THAT occur between the</p> <p>19 end of the fiscal period in which had audit has</p> <p>20 been conducted and the date that the auditors</p> <p>21 sign off?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. So if you look at page 39,</p> <p>24 the next to the last paragraph, do you see, it</p> <p>25 says, quote, "Over the course of 2019 through</p>	<p>Page 125</p> <p>1 JAMES DONDERO</p> <p>2 the report date, HCMFA issued Promissory Notes</p> <p>3 to the partnership in the aggregate amount of</p> <p>4 \$7.4 million?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And are you surprised to see</p> <p>7 that in the audit report?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 MR. MORRIS: Withdrawn.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Have you seen – have you seen this</p> <p>13 entry in the audit report before this moment?</p> <p>14 A. No.</p> <p>15 Q. Okay. Are you aware that Highland</p> <p>16 employees were responsible for drafting the</p> <p>17 audit report?</p> <p>18 A. Responsible for drafting the audit</p> <p>19 report? I don't know if that's a fair</p> <p>20 statement.</p> <p>21 I think they provide the detail; but</p> <p>22 my understanding, the audit report is a work</p> <p>23 product of the accounting firm. That's my</p> <p>24 understanding.</p> <p>25 Q. Was there a group within Highland</p>

<p>Page 126</p> <p>1 JAMES DONDERO</p> <p>2 that was responsible for working with the</p> <p>3 auditors in the preparation of the audit</p> <p>4 reports?</p> <p>5 A. Yeah, yes.</p> <p>6 Q. Do you know what group that was?</p> <p>7 A. I believe there's a financial</p> <p>8 reporting group that reports to Frank that</p> <p>9 handles this interaction.</p> <p>10 Q. Are you familiar – are you aware of</p> <p>11 what role Mr. Waterhouse plays, if any, in</p> <p>12 connection with Highland's annual audit, at</p> <p>13 least during the time that you were serving as</p> <p>14 president?</p> <p>15 A. I think he – he coordinates – I</p> <p>16 think he has to sign off on many aspects of it,</p> <p>17 you know, as a C suite executive. So he's</p> <p>18 responsible for, you know, completeness,</p> <p>19 integrity, et cetera.</p> <p>20 And there's a certain amount of</p> <p>21 reliance that PWC puts on it; but my</p> <p>22 understanding is audits for the last bunch of</p> <p>23 years has been pretty much a hundred percent</p> <p>24 sampling and verification.</p> <p>25 Q. High- –</p>	<p>Page 127</p> <p>1 JAMES DONDERO</p> <p>2 A. – PWC.</p> <p>3 Q. I apologize, sir.</p> <p>4 Highland was the sole source of</p> <p>5 information that's contained in its audit</p> <p>6 reports, right, to the best of your knowledge?</p> <p>7 A. No. No. When I – the last thing I</p> <p>8 said a minute ago about I believe it was a</p> <p>9 hundred percent sampling and verification, I</p> <p>10 think the audit firm ties back to vendors,</p> <p>11 credit agreements, source documents, et cetera.</p> <p>12 Highland is not the only source of</p> <p>13 this information.</p> <p>14 Q. You were also responsible for the</p> <p>15 audit report; is that fair?</p> <p>16 A. Yes.</p> <p>17 Q. And that's because you signed a</p> <p>18 management representation letter, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And do you have an understanding of</p> <p>21 what management a representation letter is?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form. I think you've asked this in each</p> <p>24 day of the deposition.</p> <p>25 MR. MORRIS: Okay. Just trying to</p>
<p>Page 128</p> <p>1 JAMES DONDERO</p> <p>2 get some background here.</p> <p>3 THE WITNESS: Yes, I have a general</p> <p>4 understanding. They very from accounting</p> <p>5 firm to accounting firm, and they very</p> <p>6 depending upon the type of audit. But I</p> <p>7 have a general understanding of them, yes.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Okay. And you're – are you aware</p> <p>10 that HCMFA had its financial statements audited</p> <p>11 by PWC as well?</p> <p>12 A. Yes.</p> <p>13 Q. Are you aware that HCMFA disclosed</p> <p>14 the May 2019 Notes in its own audited financial</p> <p>15 statements?</p> <p>16 A. I assume so.</p> <p>17 Q. Have you ever –</p> <p>18 A. I don't have specific – I don't</p> <p>19 have specific awareness, but it's not reported</p> <p>20 here but not on HCMFA; so I assume they are,</p> <p>21 yes.</p> <p>22 Q. Okay. And do you sign Management</p> <p>23 Representation Letters for HCMFA's audit as you</p> <p>24 do for Highland?</p> <p>25 A. I believe so.</p>	<p>Page 129</p> <p>1 JAMES DONDERO</p> <p>2 Q. Have you ever told anyone that</p> <p>3 HCMFA's audited financial statements for the</p> <p>4 period ending December 31, 2018, inaccurately</p> <p>5 described the \$7.4 million transferred from</p> <p>6 Highland to HCMFA as loans?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 THE WITNESS: No, I have not; but I</p> <p>10 haven't been involved in any of the audit</p> <p>11 functions for quite some time.</p> <p>12 I don't think I was involved or</p> <p>13 signed Management Representation Letters</p> <p>14 for any period covered by this.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Okay. Let's switch gears.</p> <p>17 The advisors have annual contracts</p> <p>18 to manage certain retail funds, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And the retail funds have a board</p> <p>21 that decides whether to renew the contracts</p> <p>22 with the advisors, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And in connection with the annual</p> <p>25 renewal, the advisors provide information to</p>

<p>Page 130</p> <p>1 JAMES DONDERO</p> <p>2 the retail board, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you've participated in meetings</p> <p>5 with the retail board concerning the renewal</p> <p>6 process, correct?</p> <p>7 A. Sometimes.</p> <p>8 Q. Okay. Do you recall that in late</p> <p>9 2020, the advisors provided a written memo to</p> <p>10 the retail board in connection with the annual</p> <p>11 15-C review process?</p> <p>12 A. No.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: Can we put up</p> <p>15 Exhibit 59, please.</p> <p>16 MS. CANTY: (Complies with request.)</p> <p>17 (Whereupon, Exhibit 59, Memorandum,</p> <p>18 dated October 23, 2020, Bates stamped</p> <p>19 HCMFAS 000025 through HCMFAS 000031, marked</p> <p>20 for identification, as of this date.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you see that this is a memo dated</p> <p>23 October 23, 2020?</p> <p>24 A. Yes.</p> <p>25 Q. Is it fair to describe this memo as</p>	<p>Page 131</p> <p>1 JAMES DONDERO</p> <p>2 a memo from the advisors to the retail boards</p> <p>3 concerning a supplemental 15-C information</p> <p>4 request?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. As always, Mr. Dondero, you</p> <p>7 can view any portion of this document. But if</p> <p>8 we could just scroll down a little bit, I just</p> <p>9 want to know --</p> <p>10 MS. DEITSCH-PEREZ: Do we have a</p> <p>11 copy of this document? Is it in your book?</p> <p>12 MR. MORRIS: No.</p> <p>13 MS. DEITSCH-PEREZ: Okay. Well,</p> <p>14 then he can't actually look at it. He's</p> <p>15 looking at what's on the screen.</p> <p>16 MR. MORRIS: Please.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Mr. Dondero, do you understand what</p> <p>19 I meant?</p> <p>20 Will you let me know if there's any</p> <p>21 portion of the document you want to see?</p> <p>22 A. Sure. Can you -- can you just keep</p> <p>23 scrolling and let me see the next page?</p> <p>24 Q. Thank you, sir.</p> <p>25 MS. CANTY: (Complies with request.)</p>
<p>Page 132</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: Just stop there for a</p> <p>3 second.</p> <p>4 MS. CANTY: (Complies with request.)</p> <p>5 THE WITNESS: Okay. Keep going.</p> <p>6 MS. CANTY: (Complies with request.)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Just -- I'm going to ask you</p> <p>9 questions about Section 2 just so you know, but</p> <p>10 you're welcome to view any portion of this</p> <p>11 document as you believe necessary.</p> <p>12 MS. CANTY: I also put it in the</p> <p>13 chat, John.</p> <p>14 MR. MORRIS: Thank you.</p> <p>15 THE WITNESS: I see it.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Okay. So --</p> <p>18 A. Can you go -- let's keep going.</p> <p>19 Just I'll quickly read the whole thing.</p> <p>20 Q. No problem.</p> <p>21 A. That's it. Okay. Got it. All</p> <p>22 right.</p> <p>23 Q. Okay. So now that you've seen the</p> <p>24 substance of the memo, do you recall if you saw</p> <p>25 it before today?</p>	<p>Page 133</p> <p>1 JAMES DONDERO</p> <p>2 A. I've never seen it before today.</p> <p>3 Q. Okay. So do you know who's</p> <p>4 responsible for preparing a memo of this type</p> <p>5 on behalf of the advisors?</p> <p>6 A. Let's go back to the front and see</p> <p>7 who it's from.</p> <p>8 Q. Sure.</p> <p>9 MS. CANTY: (Complies with request.)</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Is that --</p> <p>12 A. Yeah. Now, I -- given what it is,</p> <p>13 it's something that, I'm sure, comes out of</p> <p>14 legal and compliance.</p> <p>15 Q. And does -- do the advisors have --</p> <p>16 withdrawn.</p> <p>17 Did the advisors have their own</p> <p>18 legal and compliance officers as of October 23,</p> <p>19 2020?</p> <p>20 A. No.</p> <p>21 Q. Did they have any -- did anybody</p> <p>22 serve as the advisors' general counsel as of</p> <p>23 October 23, 2020?</p> <p>24 A. My belief and recollection is the</p> <p>25 Shared Services Agreements provided the legal</p>

<p>Page 134</p> <p>1 JAMES DONDERO</p> <p>2 and accounting support for all the funds listed</p> <p>3 in the "to" section here.</p> <p>4 As I said earlier, NexPoint has a</p> <p>5 couple accountants – I mean – I'm sorry – a</p> <p>6 couple lawyers who do real estate transactions</p> <p>7 stuff. Their – their title – their title</p> <p>8 meaning DC's counsel, DC Sauter, who's the most</p> <p>9 senior attorney there, it might be general</p> <p>10 counsel; but he only does real estate</p> <p>11 transactions.</p> <p>12 The legal dependents of NexPoint and</p> <p>13 HCMFA was on the Shared Services Agreement and</p> <p>14 the Highland attorneys that performed those</p> <p>15 Shared Services Agreements.</p> <p>16 Q. Okay. Did anybody acting on behalf</p> <p>17 of the advisors review and approve this memo</p> <p>18 before it was sent to the retail funds?</p> <p>19 A. I don't know.</p> <p>20 Q. Is it your practice as the president</p> <p>21 of the advisors to have memos sent to the</p> <p>22 retail board without anybody reviewing and</p> <p>23 approving the memos on behalf of the advisors?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>	<p>Page 135</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: I'm not aware of what</p> <p>3 standard practice was or wasn't; but again,</p> <p>4 the infrastructure for something like this</p> <p>5 would have been only at Highland.</p> <p>6 HCMFA only had portfolio managers</p> <p>7 and analysts as employees, and NexPoint</p> <p>8 pretty much only had portfolio managers and</p> <p>9 analysts as employees.</p> <p>10 The staff functions were at</p> <p>11 Highland, and Highland serviced the funds</p> <p>12 via a Shared Services Agreement that was</p> <p>13 still in place as of the date of this memo.</p> <p>14 MR. MORRIS: Okay. Can we go down</p> <p>15 to Section 2, please.</p> <p>16 MS. CANTY: (Complies with request.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Looking at Section 2, do you see</p> <p>19 that there's a question as to whether there are</p> <p>20 any material amounts currently payable or due</p> <p>21 in the future EG notes to –</p> <p>22 A. Yes.</p> <p>23 Q. – the Highland by HCMFA or</p> <p>24 NexPoint?</p> <p>25 A. Yes.</p>
<p>Page 136</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay. In the 53 or 54 weeks since</p> <p>3 this memo as was sent, do you know if it has</p> <p>4 been amended or modified in any way?</p> <p>5 A. I believe there was similar memos</p> <p>6 like this for this year's annual – for the</p> <p>7 2021 renewal, but I do not have – I've not</p> <p>8 seen those either; and I don't know how this</p> <p>9 answer would have changed.</p> <p>10 Q. Okay. But at least as of</p> <p>11 October 23, 2020, this is the response that the</p> <p>12 advisors gave to the retail board in response</p> <p>13 to Question Number 2, right?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 THE WITNESS: As far – as far as I</p> <p>17 know, having seen it here for the first</p> <p>18 time and not knowing whether this was the</p> <p>19 final or if there were subsequent letters</p> <p>20 and not knowing what the 2021 letter looks</p> <p>21 like, on its surface that appears so; but I</p> <p>22 have no awareness.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Okay. And just I'll represent to</p> <p>25 you, Mr. Dondero, that I obtained this letter</p>	<p>Page 137</p> <p>1 JAMES DONDERO</p> <p>2 from counsel to the advisors in response to my</p> <p>3 specific request for the October 2020, 15-C</p> <p>4 response. So that's how – that's how I got it</p> <p>5 just so you know.</p> <p>6 A. Okay.</p> <p>7 Q. So – so were you aware in October</p> <p>8 of 2020 that NexPoint informed the retail board</p> <p>9 that as of June 30, 2020, it owed Highland and</p> <p>10 its affiliates approximately \$23.7 million?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 THE WITNESS: I was not aware.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Does that amount comport with your</p> <p>16 recollection as to what was outstanding on the</p> <p>17 May 31, 2017, note that NexPoint gave to</p> <p>18 Highland?</p> <p>19 A. I don't have awareness.</p> <p>20 Q. Okay. Did NexPoint – do you know</p> <p>21 if NexPoint ever informed the retail board that</p> <p>22 any – any portion of that \$23.7 million was</p> <p>23 subject to any of the agreements that you</p> <p>24 entered into with the Dugaboy trustee?</p> <p>25 A. I – I don't know.</p>

<p>Page 138</p> <p>1 JAMES DONDERO</p> <p>2 Q. Did you ever instruct anybody on</p> <p>3 behalf of NexPoint to advise the retail board</p> <p>4 of the existence of the agreements?</p> <p>5 A. No, I do not believe so.</p> <p>6 Q. Do you know if anybody acting on</p> <p>7 behalf of NexPoint has ever informed the retail</p> <p>8 board that NexPoint's outstanding obligation</p> <p>9 was subject to the agreements that you entered</p> <p>10 into with the Dugaboy trustee?</p> <p>11 A. No.</p> <p>12 Q. Did you ever inform the retail</p> <p>13 boards that any portion of this \$23 million was</p> <p>14 subject to offset?</p> <p>15 A. You know what, I – let me answer</p> <p>16 that and let me also adjust the last five no</p> <p>17 answers I just rattled off.</p> <p>18 I'm thinking in the context of the</p> <p>19 time period of the date of this letter, which</p> <p>20 is October of 2020.</p> <p>21 Again, there would have been similar</p> <p>22 letters and disclosures like this and</p> <p>23 additional questions, initial requests for</p> <p>24 renewal, and then subsequent questions,</p> <p>25 probably multiple subsequent questions, given</p>	<p>Page 139</p> <p>1 JAMES DONDERO</p> <p>2 everything that's going on with the Highland</p> <p>3 bankruptcy in 2021.</p> <p>4 And I'm not aware of what those</p> <p>5 letters contain. I haven't seen those letters</p> <p>6 either, but those letters may include quite a</p> <p>7 bit of disclosure regarding the questions that</p> <p>8 you're asking me; but I don't know. But I</p> <p>9 didn't specifically instruct anybody to tell</p> <p>10 the board. I also didn't instruct anybody</p> <p>11 specifically to not tell the board.</p> <p>12 So I don't know what was told to the</p> <p>13 board for the period after October 2020.</p> <p>14 Q. Okay. I appreciate that, and I can</p> <p>15 only ask you what you know, right?</p> <p>16 And so what may or may not be in any</p> <p>17 other report is kind of irrelevant here because</p> <p>18 you haven't seen those reports, right?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And so you have no basis of</p> <p>21 knowing one way or the other whether any report</p> <p>22 delivered to the retail board after October</p> <p>23 2020 – 2020 contains anything about the</p> <p>24 agreements that you entered into with the</p> <p>25 Dugaboy trustee, correct?</p>
<p>Page 140</p> <p>1 JAMES DONDERO</p> <p>2 A. Right. I just want to be clear that</p> <p>3 my answer's saying I did not specifically</p> <p>4 instruct somebody to tell them. It doesn't</p> <p>5 mean they don't know or someone else didn't</p> <p>6 tell them.</p> <p>7 Q. Okay.</p> <p>8 A. So that's – that's a clarification</p> <p>9 I want to make.</p> <p>10 Q. Okay. No problem.</p> <p>11 And then – and then do you see that</p> <p>12 there's a report to the retail board that HCMFA</p> <p>13 had approximately \$12.3 million outstanding to</p> <p>14 Highland as of June 30, 2020?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. So just the same type of</p> <p>17 questions.</p> <p>18 Do you have any knowledge as to how</p> <p>19 that number was calculated?</p> <p>20 A. No.</p> <p>21 Q. Do you know if it includes the</p> <p>22 \$7.4 million, which is the aggregate principal</p> <p>23 amount of the two notes that HCMFA issued to</p> <p>24 Highland in May of 2019?</p> <p>25 A. I don't specifically, but given</p>	<p>Page 141</p> <p>1 JAMES DONDERO</p> <p>2 everything we have gone over in the last – I</p> <p>3 don't know. Probably.</p> <p>4 Q. Okay. Do you know whether anybody</p> <p>5 has informed the retail board on behalf of</p> <p>6 HCMFA that that \$12.3 million was overstated by</p> <p>7 \$7.4 million?</p> <p>8 A. I – I don't know.</p> <p>9 Q. Okay. Do you know whether – do you</p> <p>10 know whether anybody acting behalf of HCMFA</p> <p>11 ever told the retail boards that the</p> <p>12 \$12.3 million was subject to offset of any</p> <p>13 kind?</p> <p>14 A. I don't know, but I can't imagine</p> <p>15 the October 21 letter didn't address some of</p> <p>16 those issues because those issues I'm not sure</p> <p>17 were known at this point in time.</p> <p>18 Q. Okay. If – and we can look at</p> <p>19 paragraph 1 if it helps.</p> <p>20 But my question is whether you're</p> <p>21 aware of anybody on behalf of HCMFA ever</p> <p>22 informing the retail board in 2020 that HCMFA</p> <p>23 had claims against Highland?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>

<p>Page 142</p> <p>1 JAMES DONDERO</p> <p>2 THE WITNESS: I don't know.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. Do you know whether anybody acting</p> <p>5 on behalf of either the advisors informed the</p> <p>6 retail board at any time in the year 2020 that</p> <p>7 either advisor had claims against Highland?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: I don't know.</p> <p>11 MR. MORRIS: Okay. We can take that</p> <p>12 down, please.</p> <p>13 MS. CANTY: (Complies with request.)</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Are you aware that the Court</p> <p>16 confirmed the Debtor's Fifth Amended Complaint</p> <p>17 of Reorganization in February of 2021?</p> <p>18 A. Generally.</p> <p>19 Q. And do you recall that objections to</p> <p>20 the confirmation of the plan were filed by you</p> <p>21 and each of the advisors, among others?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recall that these</p> <p>24 actions, these lawsuits to collect on the</p> <p>25 notes, they were commenced before the</p>	<p>Page 143</p> <p>1 JAMES DONDERO</p> <p>2 confirmation hearing, right?</p> <p>3 A. I – I don't – I don't know.</p> <p>4 Q. All right. I'll represent to you</p> <p>5 that the lawsuits were commenced on or about</p> <p>6 January 22, and the confirmation hearing took</p> <p>7 place, I think, on February 2 and February 3,</p> <p>8 2021.</p> <p>9 Does that refresh your recollection</p> <p>10 at all that the lawsuits were known to you at</p> <p>11 the time of confirmation?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 THE WITNESS: Not specifically. I</p> <p>15 mean, given the details you just explained,</p> <p>16 I guess generally.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Okay. I'd like to refer to you</p> <p>19 NexPoint and HCMFA and HCRE and Services</p> <p>20 collectively as the defendants for the next set</p> <p>21 of questions, okay?</p> <p>22 A. Okay.</p> <p>23 Q. And these questions are in your</p> <p>24 capacity as an individual and in your 30(b)(6)</p> <p>25 capacity, okay?</p>
<p>Page 144</p> <p>1 JAMES DONDERO</p> <p>2 Is that okay, sir?</p> <p>3 A. I'll do the best I can. If I – if</p> <p>4 I need clarity or caveats, I'll throw them out</p> <p>5 there.</p> <p>6 Q. Okay. Now, I do understand you're</p> <p>7 not a 30(b)(6) witness for HCMFA today. So</p> <p>8 let's make that clear.</p> <p>9 MS. DEITSCH-PEREZ: Thank you.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. As to HCMFA, you're just here in</p> <p>12 your individual capacity as the control person,</p> <p>13 okay?</p> <p>14 Prior to confirmation, do you know</p> <p>15 whether anyone acting on behalf of any of the</p> <p>16 defendants ever disclosed to the bankruptcy</p> <p>17 court the terms or the existence of your</p> <p>18 agreement – agreements with the Dugaboy</p> <p>19 trustee?</p> <p>20 A. I guess generally, I've testified to</p> <p>21 this already. There were numerous</p> <p>22 conversations with Seery, and I know Lynn had</p> <p>23 conversations.</p> <p>24 Q. Sir, I apologize, but I'm going to</p> <p>25 interrupt because I know you're tired; and I</p>	<p>Page 145</p> <p>1 JAMES DONDERO</p> <p>2 want to get this done. But my question had to</p> <p>3 do with the disclosure to the bankruptcy court,</p> <p>4 okay? Let me just try again.</p> <p>5 Are you aware, sir, whether any of</p> <p>6 the defendants disclosed to the bankruptcy</p> <p>7 court prior to confirmation the existence of</p> <p>8 the agreements that you entered into with the</p> <p>9 Dugaboy trustee?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form and to interrupting the witness.</p> <p>12 THE WITNESS: I'll say yes.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Okay. Did you do that?</p> <p>15 A. Yes.</p> <p>16 Q. And did you do that as part of your</p> <p>17 testimony in the hearing, or did you do it</p> <p>18 through the filing of a pleading?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 THE WITNESS: I don't – I don't</p> <p>22 know about pleadings or filings. I – I</p> <p>23 don't know.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Do you recall what you told the</p>

<p>Page 146</p> <p>1 JAMES DONDERO</p> <p>2 bankruptcy court about the agreements that you</p> <p>3 entered into with the Dugaboy trustee?</p> <p>4 A. No. I'm not – yes. No. I'm</p> <p>5 not – no, I don't. I don't want to – I don't</p> <p>6 want to start talking and have you strike it or</p> <p>7 object. So I'll just answer specifically until</p> <p>8 you get to the question.</p> <p>9 Q. Yeah. So – so again, I'm not</p> <p>10 trying to trick you.</p> <p>11 Can you recall when you told the</p> <p>12 bankruptcy court that you had entered into will</p> <p>13 the agreements with the Dugaboy trustee?</p> <p>14 A. No.</p> <p>15 Q. Can you remember the subject matter</p> <p>16 of any hearing at which you informed the</p> <p>17 bankruptcy court about the existence of the</p> <p>18 agreements that you entered into with the</p> <p>19 Dugaboy trustee?</p> <p>20 A. I don't know where or how this works</p> <p>21 legally. But every written proposal we put</p> <p>22 forward as a solution and as a plot plan,</p> <p>23 always had a zero on all the affiliated notes</p> <p>24 as being a zero in something that was</p> <p>25 ultimately likely to be compensation.</p>	<p>Page 147</p> <p>1 JAMES DONDERO</p> <p>2 All of those settlement proposals,</p> <p>3 some were done formally through Seery; some</p> <p>4 were done indirectly; some of it were – some</p> <p>5 of them were done to the independent board;</p> <p>6 some of them were done directly to Clemente.</p> <p>7 But all of those documented the expectation</p> <p>8 that the notes were compensation.</p> <p>9 Q. Do you believe that any of the</p> <p>10 documents that you just described were ever</p> <p>11 presented to the bankruptcy court?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. When and in what context were</p> <p>14 those documents delivered to the bankruptcy</p> <p>15 court?</p> <p>16 A. I believed that the independent</p> <p>17 board and Seery were representatives of the</p> <p>18 bankruptcy court in that regard.</p> <p>19 So I think within a month, two</p> <p>20 months of the filing, there were proposals made</p> <p>21 to creditors directly and the independent</p> <p>22 board; and then subsequently, once Seery became</p> <p>23 president, to him.</p> <p>24 And then when Seery proved</p> <p>25 ineffective regarding settlements, there were</p>
<p>Page 148</p> <p>1 JAMES DONDERO</p> <p>2 reach outs – reaches out to creditors directly</p> <p>3 again and – to Clemente and the committee; but</p> <p>4 I think the committee already sold all their</p> <p>5 stuff by that point.</p> <p>6 I mean, I – listen, I – but I</p> <p>7 consider those reach-outs and characterizations</p> <p>8 of the notes as not part of settlement under</p> <p>9 the estate and that is likely to be</p> <p>10 compensation notifying the Court generally.</p> <p>11 Q. Okay. Are you aware of any notice</p> <p>12 that was ever given to Judge Jernigan about the</p> <p>13 existence of any of the agreements that you</p> <p>14 entered into with the Dugaboy trustee?</p> <p>15 A. I – I don't know.</p> <p>16 Q. Okay. You're not aware of any as</p> <p>17 you sit here right now; is that fair?</p> <p>18 A. Yes. I'm not aware if any of my</p> <p>19 reach-outs to the people that I described ever</p> <p>20 made it to Jernigan. I don't know.</p> <p>21 Q. Okay.</p> <p>22 A. I know she asked for updates on the</p> <p>23 plot plan. I know she asked for whatever, but</p> <p>24 I don't know what specificity any of the people</p> <p>25 I described presented them to her. So I don't</p>	<p>Page 149</p> <p>1 JAMES DONDERO</p> <p>2 know.</p> <p>3 Q. And I appreciate what you've said</p> <p>4 about the proposals that you've made. But my</p> <p>5 next question's very specific.</p> <p>6 Prior to the commencement of</p> <p>7 litigation, did you or anybody acting on your</p> <p>8 behalf ever tell Jim Seery or Matt Clemente of</p> <p>9 your agreements with the Dugaboy trustee?</p> <p>10 A. I – I don't know specifically.</p> <p>11 Q. Thank you very much.</p> <p>12 THE COURT REPORTER: I'm sorry.</p> <p>13 When you get to a good point, could we just</p> <p>14 take a quick break?</p> <p>15 MR. MORRIS: Yeah. Why don't we do</p> <p>16 that, and I hope to try to wrap up. So</p> <p>17 it's 5:37. I mean, I'm going to need</p> <p>18 probably, you know, another half hour or an</p> <p>19 hour; but I want to try to finish. It's</p> <p>20 5:38.</p> <p>21 I'm fine with if we just come back</p> <p>22 at 4:45 Central Time, seven minutes.</p> <p>23 THE VIDEOGRAPHER: All right. We're</p> <p>24 off record at 4:38.</p> <p>25 (Whereupon, a break was taken.)</p>

<p>Page 150</p> <p>1 JAMES DONDERO</p> <p>2 THE VIDEOGRAPHER: This is the</p> <p>3 beginning of Media Number 3 in the</p> <p>4 deposition of James Dondero. We are back</p> <p>5 on the record. The time is 4:45.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Just to finish up on the topic we</p> <p>8 were on when we took the break, Mr. Dondero.</p> <p>9 Prior to confirmation, do you know</p> <p>10 which of the defendants ever informed the</p> <p>11 bankruptcy court that any of the Promissory</p> <p>12 Notes that are the subject of the lawsuits were</p> <p>13 unenforceable for any reason?</p> <p>14 And when I use the phrase</p> <p>15 "bankruptcy court" here – you know what, let</p> <p>16 me ask a different question.</p> <p>17 Prior to confirmation, do you know</p> <p>18 if anybody acting on behalf of the defendants</p> <p>19 ever disclosed to Judge Jemigan that any of</p> <p>20 the Promissory Notes subject to the lawsuits</p> <p>21 were unenforceable for any reason?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 THE WITNESS: I don't know.</p> <p>25</p>	<p>Page 151</p> <p>1 JAMES DONDERO</p> <p>2 BY MR. MORRIS:</p> <p>3 Q. Prior to confirmation, did you</p> <p>4 direct anybody to inform Judge Jemigan that</p> <p>5 any of the Promissory Notes were unenforceable</p> <p>6 for any reason?</p> <p>7 A. I don't know.</p> <p>8 Q. Okay. I want to direct your</p> <p>9 attention to December 2020.</p> <p>10 Do you recall if you had a</p> <p>11 conversation with Frank Waterhouse concerning</p> <p>12 payments that were due to Highland by any of</p> <p>13 the companies that you directly or indirectly</p> <p>14 own or control?</p> <p>15 A. I'm trying to think. Generally, we</p> <p>16 overpaid on shared services, so – by a</p> <p>17 significant amount, I believe 14, 15 million</p> <p>18 bucks. And then there was a supposed to be an</p> <p>19 overall transition settlement true-up regarding</p> <p>20 the employees, the office space, you know,</p> <p>21 whatever.</p> <p>22 So the – yeah, that's – that's the</p> <p>23 – that's my general recollection.</p> <p>24 Q. But did you give Mr. Waterhouse any</p> <p>25 instructions as to whether to pay or not pay</p>
<p>Page 152</p> <p>1 JAMES DONDERO</p> <p>2 any amounts that were due and owing to Highland</p> <p>3 under any agreement between Highland and any</p> <p>4 affiliate?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 Are you asking about the Notes or</p> <p>8 the Shared Services Agreements?</p> <p>9 MR. MORRIS: I'm asking about – I'm</p> <p>10 asking very broadly any payments.</p> <p>11 THE WITNESS: I do remember having</p> <p>12 conversations not to pay any more shared</p> <p>13 services.</p> <p>14 And I hope there weren't anymore</p> <p>15 payments on shared services. There –</p> <p>16 There was never a specific to not pay the</p> <p>17 notes.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. So your recollection is that you</p> <p>20 instructed Mr. Waterhouse not to make any</p> <p>21 further payments under the shared services, and</p> <p>22 that's the instruction you gave?</p> <p>23 A. Yes.</p> <p>24 Q. Did you ever tell anybody in</p> <p>25 December of 2020 about your conversation with</p>	<p>Page 153</p> <p>1 JAMES DONDERO</p> <p>2 Mr. Waterhouse?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Do you recall telling anybody other</p> <p>5 than Mr. Waterhouse in December 2020 that no</p> <p>6 payment should be made to Highland under the</p> <p>7 Shared Services Agreement?</p> <p>8 A. I do believe there was a team – I</p> <p>9 can't remember – I know Dustin Norris is on</p> <p>10 that team. He was aware. He was aware. And</p> <p>11 as a matter of fact, I think – yeah. He – I</p> <p>12 know he was aware for sure.</p> <p>13 Q. Anybody else?</p> <p>14 A. There were other people on that</p> <p>15 team, but I can't remember who was on that team</p> <p>16 or who was in the room at any time.</p> <p>17 Q. Is there anything in writing that</p> <p>18 you recall that reflects the instruction that</p> <p>19 you gave to Mr. Waterhouse in December 2020</p> <p>20 that we're talking about?</p> <p>21 A. I believe the back-and-forth and the</p> <p>22 true-up with Seery on the multiple of things</p> <p>23 that I was just discussing, you know, right to</p> <p>24 transition of people, it included no more</p> <p>25 shared services being paid and a credit for</p>

<p>Page 154</p> <p>1 JAMES DONDERO</p> <p>2 overpayment on shared services. And those –</p> <p>3 those spreadsheets went back and forth, and</p> <p>4 Seery has copies of them also.</p> <p>5 Q. Are you aware of any payments being</p> <p>6 made by the advisors to Highland after</p> <p>7 November 30, 2020?</p> <p>8 A. Hopefully not on shared services. I</p> <p>9 believe there were payments on principal and</p> <p>10 interest on notes.</p> <p>11 Q. Were any of those payments that you</p> <p>12 have in mind made before the end of calendar</p> <p>13 year 2020 – withdrawn.</p> <p>14 Were any of those payments that you</p> <p>15 have in mind made in December 2020?</p> <p>16 A. I don't know. I don't know which</p> <p>17 ones were paid and kept current. I don't know</p> <p>18 which ones were cured. I don't – I don't</p> <p>19 remember which ones were which.</p> <p>20 Q. Are you aware of any note that was</p> <p>21 tendered by one of Highland's affiliates on</p> <p>22 which payment was made in December 2020?</p> <p>23 A. I don't know. I don't know when –</p> <p>24 I don't know which ones were kept current. I</p> <p>25 don't know which ones were cured in December.</p>	<p>Page 155</p> <p>1 JAMES DONDERO</p> <p>2 I don't know which ones were cured in January</p> <p>3 or February. I don't know.</p> <p>4 Q. Is it your testimony that you</p> <p>5 believe that one or more of Highland affiliates</p> <p>6 made a payment in December 2020 to cure – as a</p> <p>7 cure payment?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. I just – I'm sorry. I –</p> <p>12 A. I – I – okay.</p> <p>13 Q. Yeah. I just want to try to get</p> <p>14 this as clearly as I can. Did you –</p> <p>15 A. I believe –</p> <p>16 Q. Go ahead, sir.</p> <p>17 A. No. I'll let you go. It's better</p> <p>18 if you ask me.</p> <p>19 Q. Okay. Did you direct anybody to</p> <p>20 make any payment in December 2020 to Highland</p> <p>21 on behalf of any affiliate that you owned or</p> <p>22 controlled?</p> <p>23 A. I believe all notes are outstanding</p> <p>24 and current and in good standing. I don't know</p> <p>25 when they were cured.</p>
<p>Page 156</p> <p>1 JAMES DONDERO</p> <p>2 Q. Are you just talking about the term</p> <p>3 notes here or the demand notes as well?</p> <p>4 A. All of the above. All of the notes</p> <p>5 as far as I know.</p> <p>6 Q. Are you aware that in December 2020,</p> <p>7 Highland made a demand for payment under all of</p> <p>8 the demand notes?</p> <p>9 A. And I believe they're all current as</p> <p>10 far as interest and principal amortization. I</p> <p>11 believe they've all been cured.</p> <p>12 Q. Okay. Can you identify any payment</p> <p>13 that was made in December 2020 to Highland on</p> <p>14 behalf of yourself or any entity that you</p> <p>15 directly or indirectly own or control?</p> <p>16 A. I wouldn't have been involved in –</p> <p>17 I wouldn't have been involved in normal course</p> <p>18 payments. I know there were – I know for sure</p> <p>19 there were cure payments in January. I don't</p> <p>20 know if there were in December.</p> <p>21 Q. Okay. And that's – we'll get to</p> <p>22 January. I'm just trying to finish up</p> <p>23 December.</p> <p>24 Are you aware of any payments made</p> <p>25 in December 2020 –</p>	<p>Page 157</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. – by you – by you or any entity</p> <p>6 directly or indirectly owned or control by you</p> <p>7 to Highland?</p> <p>8 A. I don't have awareness.</p> <p>9 Q. Do you recall that early in 2021,</p> <p>10 Highland gave notice of default on the three</p> <p>11 term notes?</p> <p>12 A. I'm aware in – that January – yes,</p> <p>13 I guess I am aware that Highland declared them</p> <p>14 in default in January, yes.</p> <p>15 Q. And you're aware that in addition to</p> <p>16 declaring them in default, they gave notice of</p> <p>17 acceleration?</p> <p>18 A. I'm not aware of acceleration. I'm</p> <p>19 aware of, I guess, default I had heard.</p> <p>20 Q. Did you ever see the</p> <p>21 notice-of-default letters that Highland sent to</p> <p>22 NexPoint HCRE and services?</p> <p>23 A. I don't believe I've seen all of</p> <p>24 them. I think I've seen one on demand notes.</p> <p>25 I don't think I've – I don't remember seeing</p>

<p>Page 158</p> <p>1 JAMES DONDERO</p> <p>2 any on term loans.</p> <p>3 Q. All right. So as you sit here right</p> <p>4 now, you don't have a recollection of having</p> <p>5 seen the default notices that were sent by</p> <p>6 Highland in January 2021 with respect to the</p> <p>7 term notes, right?</p> <p>8 MS. DEITSCH-PEREZ: Why don't you</p> <p>9 show him one.</p> <p>10 THE WITNESS: I don't recall. Yeah.</p> <p>11 I mean, I don't – I don't recall seeing</p> <p>12 any of them.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. Okay. How did you learn that</p> <p>15 Highland had sent the default notices?</p> <p>16 A. I believe it was at a hearing I</p> <p>17 attended in person from which I called Frank,</p> <p>18 and I was surprised and annoyed that the</p> <p>19 relative de minimis amounts hadn't been paid;</p> <p>20 and I asked him what does it take to cure them</p> <p>21 or make them current.</p> <p>22 And then he told me the numbers, and</p> <p>23 they were small and de minimis; and I told him</p> <p>24 make sure they get paid and make sure the notes</p> <p>25 are cured.</p>	<p>Page 159</p> <p>1 JAMES DONDERO</p> <p>2 Q. Did you do anything or say anything</p> <p>3 else with respect to your – your learning</p> <p>4 about the declaration of default?</p> <p>5 A. No. It – no. I don't remember</p> <p>6 anything else.</p> <p>7 Q. Did you ask your – do you know</p> <p>8 whether anyone acting on behalf of ever reached</p> <p>9 out to Highland with respect to the payments</p> <p>10 that were made in January of 2021 as cure</p> <p>11 payments as you described them?</p> <p>12 A. Frank was Highland.</p> <p>13 Q. I'm asking –</p> <p>14 A. Frank – Frank – Frank was the</p> <p>15 person I reached out to at Highland. Who else</p> <p>16 would I reach out to at Highland?</p> <p>17 Q. Did you – did you reach out to</p> <p>18 anybody else?</p> <p>19 A. No. Just Frank.</p> <p>20 Q. Okay. Did anybody acting on your</p> <p>21 behalf reach out to anybody else?</p> <p>22 A. Not that I know of or not that I</p> <p>23 thought was necessary.</p> <p>24 Q. In January of 2021, did it occur to</p> <p>25 you to either communicate with or through your</p>
<p>Page 160</p> <p>1 JAMES DONDERO</p> <p>2 lawyer, with Mr. Seery, about this?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 THE WITNESS: No. I thought Frank</p> <p>6 was fully empowered.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Okay. Did you ever confirm your</p> <p>9 understanding about the cure with</p> <p>10 Mr. Waterhouse in writing?</p> <p>11 A. In writing? No. I believe it was</p> <p>12 all in that phone conversation from the Court.</p> <p>13 I don't – I don't recall anything in writing,</p> <p>14 but I'll check.</p> <p>15 Q. Do you recall sending him an e-mail</p> <p>16 in which you confirmed with Mr. Waterhouse your</p> <p>17 understanding that the debtor had agreed that</p> <p>18 the payments that were being paid would</p> <p>19 constitute a cure?</p> <p>20 A. No, I didn't – no. At the time I</p> <p>21 didn't think it was necessary. It was – the</p> <p>22 cure amount was calculated by Frank. It was</p> <p>23 paid immediately. It was accepted. I never –</p> <p>24 I never thought to memorialize it beyond that.</p> <p>25 Q. Okay. Did you – did you ever ask</p>	<p>Page 161</p> <p>1 JAMES DONDERO</p> <p>2 your attorneys to confirm with Pachulski Stang</p> <p>3 Ziehl & Jones or anybody acting on behalf of</p> <p>4 the debtor that the payments that were made</p> <p>5 would be deemed to be cure payments?</p> <p>6 MS. DEITSCH-PEREZ: I'm going to not</p> <p>7 to disclose communications with counsel.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Okay. Do you know whether your</p> <p>10 lawyers or anybody acting on your behalf ever</p> <p>11 sought to confirm your understanding that the</p> <p>12 payments would be deemed to have cured the</p> <p>13 default under the three term notes?</p> <p>14 A. Not that I'm aware of.</p> <p>15 Q. Okay. Is there any written record</p> <p>16 of your call with Mr. Waterhouse?</p> <p>17 A. If it was from my cell phone, I'm</p> <p>18 sure there's a written record taking place of</p> <p>19 the call taking place.</p> <p>20 Q. Right. But did you take any notes,</p> <p>21 or is there anything in writing that</p> <p>22 memorialized or reflected your conversation</p> <p>23 with Mr. Waterhouse in January of 2021 about</p> <p>24 the cure?</p> <p>25 A. Not that I'm aware of and not that I</p>

<p>Page 162</p> <p>1 JAMES DONDERO</p> <p>2 thought was necessary.</p> <p>3 Q. Okay. Did – did you ever tell</p> <p>4 Judge Jernigan that you had made cure payments?</p> <p>5 A. I didn't know I'm allowed to have</p> <p>6 ex parte conversations with her, but there's a</p> <p>7 lot of things I'd like to tell her about this</p> <p>8 case; but no I did not.</p> <p>9 Q. All right. I'm not talking about</p> <p>10 ex parte conversations, sir. Let's take</p> <p>11 confirmation, for example.</p> <p>12 Did you or anybody acting on any of</p> <p>13 the defendants' behalf ever inform</p> <p>14 Judge Jernigan that Frank Waterhouse had told</p> <p>15 you that the payments in January 2021 would be</p> <p>16 deemed to be cure payments?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Thank you.</p> <p>19 MR. MORRIS: Give me one more</p> <p>20 moment. In fact, I'm going to ask for just</p> <p>21 three minutes. I'm going to check and see</p> <p>22 how much more I have here. It won't be</p> <p>23 long if I have anything. So let's go off</p> <p>24 the record.</p> <p>25 THE VIDEOGRAPHER: Would you like to</p>	<p>Page 163</p> <p>1 JAMES DONDERO</p> <p>2 go off the record?</p> <p>3 All right. We're off record at</p> <p>4 5:03.</p> <p>5 (Whereupon, a break was taken.)</p> <p>6 THE VIDEOGRAPHER: We are back on</p> <p>7 the record. The time is 5:06.</p> <p>8 MR. MORRIS: Okay. Asia, can you</p> <p>9 please put on the screen Exhibit 24, which</p> <p>10 are Mr. Dondero's written responses to</p> <p>11 discovery?</p> <p>12 MS. CANTY: (Complies with request.)</p> <p>13 (Whereupon, Exhibit 24, Defendant</p> <p>14 James Dondero's Objections and Responses to</p> <p>15 Plaintiff's Requests for Admission,</p> <p>16 Interrogatories, and Requests for</p> <p>17 Production, marked for identification, as</p> <p>18 of this date.)</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. And Mr. Dondero, I don't know if you</p> <p>21 have that binder in front of you, but this is</p> <p>22 one of the documents that will be in there,</p> <p>23 Number 24.</p> <p>24 A. Number 24?</p> <p>25 Q. Yes, sir.</p>
<p>Page 164</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: Do you got it?</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Have you seen this document before,</p> <p>6 sir?</p> <p>7 A. No.</p> <p>8 Q. Let's go to page 15 and see if that</p> <p>9 refreshes your recollection.</p> <p>10 Is that your signature?</p> <p>11 A. Yes.</p> <p>12 MS. DEITSCH-PEREZ: Yeah. It's late</p> <p>13 in the day, John.</p> <p>14 THE WITNESS: Yes.</p> <p>15 MR. MORRIS: That's why I showed him</p> <p>16 the signature.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Does that refresh your recollection</p> <p>19 that you've seen this before?</p> <p>20 A. No. It refreshes my recollection</p> <p>21 that I signed it.</p> <p>22 Q. Okay. And –</p> <p>23 A. Not that I recall – not that I</p> <p>24 looked at it in detail in any way.</p> <p>25 Q. Okay. Did you review it before you</p>	<p>Page 165</p> <p>1 JAMES DONDERO</p> <p>2 signed it?</p> <p>3 A. I – as I sit here today, I don't</p> <p>4 remember. So let's go through whatever</p> <p>5 questions you have.</p> <p>6 Q. Okay.</p> <p>7 MR. MORRIS: Go to page 8, please.</p> <p>8 MS. CANTY: (Complies with request.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. You will see that Interrogatories 3</p> <p>11 and 4 ask in substance for you to admit that</p> <p>12 you never disclosed the terms or existence of</p> <p>13 the agreement to Frank Waterhouse prior to the</p> <p>14 commencement of the adversary proceeding.</p> <p>15 Do you see that?</p> <p>16 MS. DEITSCH-PEREZ: Wait. Object to</p> <p>17 the form. Those are two different</p> <p>18 requests.</p> <p>19 MR. MORRIS: Okay. Okay. I was</p> <p>20 trying to do this quickly. We'll do it –</p> <p>21 we'll do it – we'll do it your way?</p> <p>22 MS. DEITSCH-PEREZ: No. I think you</p> <p>23 – okay.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. So let's look at Request for</p>

<p>Page 166</p> <p>1 JAMES DONDERO</p> <p>2 Admission Number 3.</p> <p>3 Do you see that Highland asked you</p> <p>4 to admit, quote, "that prior to the</p> <p>5 commencement of the adversary proceeding, you</p> <p>6 never disclosed the terms of the agreement to</p> <p>7 Frank Waterhouse," close quote?</p> <p>8 A. That's on page 8, Number 3, right?</p> <p>9 Q. Correct. And you denied that,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Did you disclose the terms of</p> <p>13 the agreement as we've defined that term to</p> <p>14 Frank Waterhouse prior to the commencement of</p> <p>15 the adversary proceeding?</p> <p>16 A. You know, what I've answered was a</p> <p>17 long answer earlier that the notes were</p> <p>18 compensation. The notes were to be – would be</p> <p>19 forgiven as part of compensation, shouldn't be</p> <p>20 included in any settlement.</p> <p>21 Frank and his group were deeply</p> <p>22 involved in all the plot plan and settlement,</p> <p>23 things that went back and forth. He knew.</p> <p>24 Now, whether he knew the specifics</p> <p>25 of the agreement in terms of, whether I ever</p>	<p>Page 167</p> <p>1 JAMES DONDERO</p> <p>2 discussed the MGM Cornerstone, Trustway, and</p> <p>3 the specifics of the agreement with him before,</p> <p>4 I don't – I don't know. So...</p> <p>5 Q. Do you –</p> <p>6 A. I think denying is appropriate, but</p> <p>7 I'm at not saying Frank knew the specifics of</p> <p>8 the agreement prior to the commencement of</p> <p>9 litigation.</p> <p>10 Q. Did you tell him that you had an</p> <p>11 agreement with the Dugaboy trustee?</p> <p>12 A. I told him there were mechanisms for</p> <p>13 forgiving the – or there were – there were</p> <p>14 mechanisms for the notes being compensation and</p> <p>15 not being part of any kind of cement or asset</p> <p>16 to the estate.</p> <p>17 Q. Okay. Do you recall telling him</p> <p>18 anything else during these conversations?</p> <p>19 A. No, I didn't – no. I didn't feel</p> <p>20 it necessary to talk to him about the</p> <p>21 specifics.</p> <p>22 Q. Okay. And do you recall having this</p> <p>23 discussion in any context other than in</p> <p>24 connection with the preparation of a settlement</p> <p>25 proposal?</p>
<p>Page 168</p> <p>1 JAMES DONDERO</p> <p>2 A. There wasn't another reason – there</p> <p>3 – no, I don't remember any other context.</p> <p>4 Q. Okay.</p> <p>5 A. But the settlements were regular and</p> <p>6 ongoing –</p> <p>7 Q. Okay.</p> <p>8 A. – in our mind, not in the</p> <p>9 Stonehill's mind.</p> <p>10 Q. Okay. Can you go – can we go to</p> <p>11 page 9, Request for Admission Number 8?</p> <p>12 A. Yes.</p> <p>13 Q. Number 8 we asked you to "admit that</p> <p>14 no document was created prior to the</p> <p>15 commencement of the adversary proceeding</p> <p>16 concerning the existence of the agreement."</p> <p>17 Have I read that right –</p> <p>18 A. I'm just reading what's on page 9,</p> <p>19 admit that prior to the agreement he never</p> <p>20 disclosed any other creditor.</p> <p>21 Q. No, no, no. I'm sorry. We're on</p> <p>22 Number 8.</p> <p>23 Can you read Number 8 out loud?</p> <p>24 A. Number 8, I'm sorry. Admit that no</p> <p>25 document was created prior to the commencement</p>	<p>Page 169</p> <p>1 JAMES DONDERO</p> <p>2 of the adversary proceeding concerning the</p> <p>3 existence of the agreement.</p> <p>4 Q. All right. So you've read that.</p> <p>5 And so my question to you is: Did you deny</p> <p>6 that because there are settlement proposals</p> <p>7 that you created that show zero value for the</p> <p>8 Promissory Notes at issue?</p> <p>9 A. Yes, partly.</p> <p>10 Q. Okay. What other documents were</p> <p>11 created prior to the commencement of the</p> <p>12 adversary proceeding that you contend concerned</p> <p>13 the existence of the agreement?</p> <p>14 A. I'm trying to think if the LPA does.</p> <p>15 Q. Okay. Anything else?</p> <p>16 A. No. That would be – that would be</p> <p>17 it.</p> <p>18 Q. Okay. Request for Admission</p> <p>19 Number 9, can you identify the creditor that</p> <p>20 caused you to deny the Request for Admission</p> <p>21 Number 9?</p> <p>22 A. I believe all the creditors via the</p> <p>23 settlement agreements; but, you know,</p> <p>24 specifically Clubock, you know, and to the</p> <p>25 extent Frank is a creditor, Frank.</p>

<p>Page 170</p> <p>1 JAMES DONDERO</p> <p>2 Q. But you just testified a few minutes</p> <p>3 ago, I thought, that you didn't specifically</p> <p>4 tell Mr. Waterhouse of the terms of the</p> <p>5 agreements to him, right? Did I miss –</p> <p>6 A. That's right. I mean, not the</p> <p>7 specific terms, correct.</p> <p>8 Q. Okay. So is there any creditor to</p> <p>9 whom you – is there any creditor of Highland's</p> <p>10 to whom you disclosed the existence of the</p> <p>11 agreements that you entered into with the</p> <p>12 Dugaboy trustee prior to the commencement of</p> <p>13 the adversary proceeding?</p> <p>14 MS. DEITSCH-PEREZ: Asked and</p> <p>15 answered.</p> <p>16 THE WITNESS: Yeah. I mean,</p> <p>17 generally, all the creditors via the</p> <p>18 settlement. And then we have lots of</p> <p>19 one-off conversations with Clubock</p> <p>20 representing UBS where the notes were</p> <p>21 described as going to be forgiven</p> <p>22 compensation, never part of the estate.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. All right. I don't – I don't want</p> <p>25 to wrestle with you.</p>	<p>Page 171</p> <p>1 JAMES DONDERO</p> <p>2 A. Sure.</p> <p>3 Q. I'm going to remind you that when I</p> <p>4 use the word "agreements," I'm referring</p> <p>5 specifically to the agreements that were set</p> <p>6 forth in paragraph 82 of your answer.</p> <p>7 Do you understand that?</p> <p>8 A. Yes. And so I guess my answer is</p> <p>9 generally but not specifically.</p> <p>10 Q. Okay. And when you say "generally,"</p> <p>11 you don't mean that you disclosed the existence</p> <p>12 or terms of the agreement to any creditor.</p> <p>13 What you mean is that you told all of the</p> <p>14 creditors that you believed that the notes</p> <p>15 should be forgiven as part of compensation.</p> <p>16 Do I have that right?</p> <p>17 A. Well, that they would be forgiven as</p> <p>18 part of compensation.</p> <p>19 Q. Okay. Subject to that correction,</p> <p>20 are we on the same page now?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Can we go to page 12,</p> <p>23 Interrogatory Number 2?</p> <p>24 A. This is still in Section 24?</p> <p>25 Q. Yes, sir.</p>
<p>Page 172</p> <p>1 JAMES DONDERO</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: 24, I'm sorry.</p> <p>5 Page 2?</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Page 12.</p> <p>8 A. Page 12. Yes. Which one?</p> <p>9 Q. Number 2.</p> <p>10 A. All right.</p> <p>11 Q. You didn't identify any email</p> <p>12 correspondence in response to Interrogatory</p> <p>13 Number 2; is that correct?</p> <p>14 A. I don't have my e-mails. So we have</p> <p>15 painfully little from the Highland estate.</p> <p>16 Q. Okay.</p> <p>17 A. I think at the time we responded, we</p> <p>18 thought we might get access to things; but we</p> <p>19 haven't been able to come up with anything. We</p> <p>20 have – we have no access to anything.</p> <p>21 Q. Okay. So as you sit here today, you</p> <p>22 cannot identify any e-mail correspondence that</p> <p>23 discusses the existence of the agreement,</p> <p>24 correct?</p> <p>25 A. Not yet, no.</p>	<p>Page 173</p> <p>1 JAMES DONDERO</p> <p>2 (Whereupon, Exhibit 27, Defendant</p> <p>3 NexPoint Advisors, L.P.'s Objections and</p> <p>4 Responses to Plaintiff's Requests for</p> <p>5 Admission, Interrogatories, and Requests</p> <p>6 for Production, marked for identification,</p> <p>7 as of this date.)</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Let's go to Exhibit Number 27.</p> <p>10 A. Yes.</p> <p>11 Q. And if we can go to page 7.</p> <p>12 MR. MORRIS: I think – I don't know</p> <p>13 who's shuffling paper.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. But if we're at page 7, we're</p> <p>16 looking at Interrogatory Number 3.</p> <p>17 Is the reason for the denial – and</p> <p>18 I apologize. I may be going too quickly</p> <p>19 because I know we're all anxious to finish, but</p> <p>20 I do want to represent to you that we're</p> <p>21 looking at the discovery responses of NexPoint</p> <p>22 Advisors.</p> <p>23 A. Right.</p> <p>24 Q. And if we went to page 12, we'd find</p> <p>25 your signature on that one, okay? So looking</p>

<p>1 JAMES DONDERO</p> <p>2 at –</p> <p>3 A. Yes.</p> <p>4 Q. – Request for Admission Number 3,</p> <p>5 is your answer the same on behalf of NexPoint</p> <p>6 Advisors as it was for yourself as to why you</p> <p>7 denied Request for Admission Number 3?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. If we can go to Request for</p> <p>10 Admission Number 6, that is the same Request</p> <p>11 for Admission that we talked about with respect</p> <p>12 to yourself in your individual capacity a</p> <p>13 moment ago.</p> <p>14 Is your reason for denying Request</p> <p>15 for Admission Number 6 the same reason that you</p> <p>16 gave for yourself?</p> <p>17 A. Yes.</p> <p>18 Q. And looking at Request for</p> <p>19 Admissions Number 7 and 8, is the reason that</p> <p>20 you denied those Requests for Admissions</p> <p>21 because you told Seery and the committee and</p> <p>22 Clubock that you wouldn't pay anything for the</p> <p>23 notes because they were supposed to be forgiven</p> <p>24 as part of your compensation?</p> <p>25 A. And the independent board, yes.</p>	<p>Page 174</p> <p>1 JAMES DONDERO</p> <p>2 Q. Okay. Is there any other reason</p> <p>3 that you denied Request for Admissions Number 7</p> <p>4 and 8?</p> <p>5 A. Not that I can think of at this</p> <p>6 point in time.</p> <p>7 I don't think the LPA applies much</p> <p>8 here, but I may be –</p> <p>9 MR. MORRIS: All right. I have no</p> <p>10 further questions.</p> <p>11 THE WITNESS: Wonderful. Thank you.</p> <p>12 Have a good evening.</p> <p>13 MR. MORRIS: Thank you. Take care.</p> <p>14 MS. DEITSCH-PEREZ: Thank you.</p> <p>15 MR. MORRIS: Bye now.</p> <p>16 THE VIDEOGRAPHER: All right. If</p> <p>17 there are no further questions, this</p> <p>18 concludes today's deposition. Volume II</p> <p>19 [sic] consists of three media. We are off</p> <p>20 the record at 5:21 p.m.</p> <p>21 THE COURT REPORTER: Everybody is</p> <p>22 leaving, and I wanted to get everybody's</p> <p>23 order on the record.</p> <p>24 MS. DEITSCH-PEREZ: I'd like the</p> <p>25 rough. And then the regular can be</p>
<p>1 JAMES DONDERO</p> <p>2 whenever you get the regular done. No</p> <p>3 special rush.</p> <p>4 THE COURT REPORTER: Okay. Thank</p> <p>5 you.</p> <p>6 MS. DEITSCH-PEREZ: You're welcome.</p> <p>7 THE COURT REPORTER: Ms. Canty, I</p> <p>8 think there's a standing order for a daily</p> <p>9 delivery – or an immediate delivery for</p> <p>10 your firm?</p> <p>11 MS. CANTY: Yes.</p> <p>12 THE COURT REPORTER: Okay. I just</p> <p>13 wanted to confirm that. I'll get that out</p> <p>14 tonight, then.</p> <p>15 MS. CANTY: Okay, thank you.</p> <p>16 (The witness is excused.)</p> <p>17 (Deposition of James Dondero</p> <p>18 concluded at 5:21 p.m. CDT.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 175</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3</p> <p>4 I, SUZANNE J. STOTZ, a Certified</p> <p>5 Shorthand Reporter, Registered Professional</p> <p>6 Reporter, Certified Realtime Reporter, and</p> <p>7 Notary Public in and for the State of Texas, do</p> <p>8 hereby certify that the foregoing is a true and</p> <p>9 accurate transcript of the stenographic</p> <p>10 above-captioned matter.</p> <p>11</p> <p>12</p> <p>13</p> <p>14 SUZANNE J. STOTZ, CSR, RPR, CRR</p> <p>15 Texas Certification No. 11942</p> <p>16</p> <p>17</p> <p>18 DATED: November 4, 2021</p> <p>19</p> <p>20</p> <p>21 NOTE: THE CERTIFICATE APPENDED TO THIS</p> <p>22 TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION</p> <p>23 OF THE SAME BY ANY MEANS, UNLESS UNDER THE</p> <p>24 DIRECT CONTROL AND/OR DIRECTION OF THE</p> <p>25 CERTIFYING COURT REPORTER.</p>
<p>Page 176</p>	<p>Page 177</p>

Page 178

ERRATA SHEET

I have read my testimony in the foregoing

transcript and believe it to be true and

correct to the best of my knowledge and belief

with the following changes:

PAGE	LINE	CHANGE
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WITNESS SIGNATURE _____ DATE _____

Sworn and subscribed to before me this

_____ day of _____, 2021.

Notary Public of the

State of _____.

Index: \$1.55-million..acting

\$	15 151:17 164:8	2021 9:10 136:7,20 139:3 142:17 143:8 157:9 158:6 159:10, 24 161:23 162:15	3:54 115:12	75 35:3
\$1.55-million 64:22	15-C 130:11 131:3 137:3	21 141:15	3rd 111:20	8
\$12.3 140:13 141:6, 12	17 20:20	22 143:6	4	8 165:7 166:8 168:11, 13,22,23,24 174:19 175:4
\$2 62:6	18 20:8 26:13 71:16 73:15	23 130:18,23 133:18, 23 136:11	4 9:10 165:11	82 13:3,12,17 14:3 39:16 47:10,20 48:8 81:25 82:10,11,17 83:18 171:6
\$2.4 91:11,13,23 92:6,11,14 93:12 103:17 104:2 107:23 109:2,25 110:13,23	19 20:8	24 163:9,13,23,24 171:24 172:4	4.4M 118:5	9
\$2.4-million 91:19	1939 104:7	252 124:3	40 12:6,24	9 25:9 168:11,18 169:19,21
\$23 138:13	1:17 9:11	27 173:2,9	47 104:9	90-day 47:22
\$23.7 137:10,22	2	2:28 66:12	4:38 149:24	A
\$250,000 58:20	2 52:24 94:19 97:15 108:25 132:9 135:15, 18 136:13 143:7 171:23 172:5,9,13	2:43 66:15	4:45 149:22 150:5	ability 27:16 43:6 45:10 47:5
\$5 101:22 102:17 111:17,21,24 112:4, 10 117:9 119:23	2,500,024 60:10	2:44 67:5	5	acceleration 157:17,18
\$5-million 116:16 120:10	2.4 104:14 110:20	3	5 103:5	accepted 8:25 160:23
\$500,000 62:5	2.5 61:5	3 117:5 119:23 123:24 143:7 150:3 165:10 166:2,8 173:16 174:4,7	50 59:17,19 82:8	access 172:18,20
\$6 99:6,16,22	20 57:16 58:2	30 8:18 12:6,22 22:3, 4,5 137:9 140:14 154:7	50,000 57:20	accommodated 66:23
\$6,068,851 98:18	200,000 64:22	30(b)(6) 14:23 15:7 17:4 18:18,21 68:24 76:24 143:24 144:7	51 82:7	accord 89:18
\$7.4 90:17 125:4 129:5 140:22 141:7	2016 57:13,21 58:18 59:3	300,000 64:23	53 93:18 94:23 95:3 97:12 136:2	account 47:2 100:18 102:7
\$7.44 102:7	2017 20:8,21 60:2,9 62:6 63:17 73:14 137:17	31 10:16 82:10 122:24 123:9,15 129:4 137:17	54 107:10,12 136:2	accountants 134:5
\$7.5 119:10,14,16	2018 20:21 23:4 122:24 123:9,16 129:4	34 22:5 123:4,6	56 116:20,22	accounted 110:22
\$7.8 103:5	2019 23:5 25:3 90:16, 25 91:13,24 97:15 99:22 102:7 108:10, 25 110:3,25 111:20, 25 112:5,10,18 113:3 114:9 116:15 117:5 119:9,24 120:11 123:24 124:25 128:14 140:24	35 22:6	57 118:24 119:3	accounting 37:24 107:19,22 108:2,12 110:8 111:13 117:5, 9,17 125:23 128:4,5 134:2
0	2020 25:3,9 109:21 130:9,18,23 133:19, 23 136:11 137:3,8,9 138:20 139:13,23 140:14 141:22 142:6 151:9 152:25 153:5, 19 154:7,13,15,22 155:6,20 156:6,13,25	36 22:6	59 130:15,17	accurately 27:24
000025 130:19		375 102:10	5:03 163:4	acting 40:22 59:10 65:20 73:5 105:7 134:16 138:6 141:10 142:4 144:15 149:7 150:18 159:8,20 161:3,10 162:12
000031 130:19		39 104:8 124:23	5:06 163:7	
1		3:21 94:6	5:21 175:20 176:18	
1 9:3 94:3 141:19		3:22 94:21	5:37 149:17	
100 96:24		3:28 66:7	5:38 149:20	
12 171:22 172:7,8 173:24		3:40 66:8	6	
13 26:14		3:53 115:9	6 174:10,15	
14 26:14 151:17			65,772 63:12	
			68 55:21 56:2,9	
			7	
			7 173:11,15 174:19 175:3	
			70 58:3	

Index: action..back

action 9:17 38:25	afternoon 8:2 67:6	170:5,11 171:4,5	apologize 33:8 48:25 54:23 69:17 102:3 127:3 144:24 173:18	audio 116:3
actions 142:24	aggregate 21:21,23 24:15 27:4 51:24 71:15 90:16 102:13 125:3 140:22	ahead 101:13 155:16		audit 122:11,20 123:23 124:19 125:7, 13,17,18,22 126:3,12 127:5,10,15 128:6,23 129:10
activities 106:2	agree 39:19 41:22 43:13 46:3 71:8 83:8 103:3 115:4,7	Aigen 77:5 95:25	apparently 67:17 95:12	audited 120:15 122:7,23 124:13 128:10,14 129:3
actual 37:24 51:11 73:16	agreed 160:17	Alan 12:7,9	appearances 9:20	auditors 124:17,20 126:3
addition 157:15	agreement 19:20 20:19,24 21:8,12,16, 25 22:7,11,18 23:2,8, 12,17,22 24:7,12,17 25:2,13,18,21,25 26:5 27:5,11,17 28:7, 22 29:18,25 30:8,14, 23 31:4,9,24 32:7,11, 22 33:11,24 34:17,22 35:14,17 36:8,22 37:4 39:7 40:10 43:13 44:12,21,24 45:17 47:19 48:5 69:21 71:20 77:24 78:3 79:9 81:25 82:22 84:16 85:22 86:11,13,20 99:25 134:13 135:12 144:18 152:3 153:7 165:13 166:6,13,25 167:3,8,11 168:16,19 169:3,13 171:12 172:23	allocate 61:10	appeared 9:17	audits 126:22
additional 101:9 103:16 138:23		allocated 61:18,21, 25 62:8	appears 136:21	authority 71:2 72:19, 21
address 141:15		allowed 162:5	applied 119:17	authorize 91:19,22 112:3
adjust 47:5 75:7 138:16		amended 13:5 136:4 142:16	applies 175:7	authorized 93:3,10
adjusted 84:4		amortization 156:10	approval 71:4,11,23	authorizing 111:23
admissible 8:16		amount 15:16 21:4, 15,19,22,24 24:6,16 30:7 31:13 57:17 58:19 61:4 62:2 75:12,13 90:17 99:12 103:9,11,20 104:2 108:25 125:3 126:20 137:15 140:23 151:17 160:22	approve 134:17	availability 62:12
Admission 163:15 166:2 168:11 169:18, 20 173:5 174:4,7,10, 11,15		amounts 56:19 92:23 100:21 112:12 135:20 152:2 158:19	approving 92:9 134:23	award 57:2,14,20 59:3 63:16
Admissions 174:19, 20 175:3		analysis 73:23 100:6	approximately 9:11 24:23 99:5,7,16,22, 23 101:21 102:6 103:4,17 137:10 140:13	awards 63:19,20
admit 165:11 166:4 168:13,19,24		analysts 135:7,9	April 90:25	aware 12:7,15,18,19 29:8,17 34:21 35:14, 17 39:5 52:19 70:5 80:16 90:14 92:21,24 93:3,11,15 99:20 100:5 105:23,24 108:10 109:19 110:7 116:15 117:16,23 119:8 121:21,25 122:9,21 125:15 126:10 128:9,13 135:2 137:7,13 139:4 141:21 142:15 145:5 148:11,16,18 153:10, 12 154:5,20 156:6,24 157:12,13,15,18,19 161:14,25 162:17
adversary 165:14 166:5,15 168:15 169:2,12 170:13	agreements 13:18, 22 14:2,8 19:16,21, 25 20:6,8,10 29:2,6, 11 30:22 31:2 40:6, 17,20 41:2,9,13,20, 24 42:12,13,16,24 46:13 47:8,11 48:4, 16 49:4,13,18 50:10, 19 51:7 53:12,19 54:3,7 69:11 72:8 73:5,23 74:7,13,20 75:2,18,25 76:12,16 77:11,19 79:17,23 81:3,16 82:18,24 83:23 84:9,19 85:11 105:23 127:11 133:25 134:15 137:23 138:4,9 139:24 144:18 145:8 146:2,13,18 148:13 149:9 152:8 169:23	analyze 73:6,8	arrives 68:20	back 17:19 18:12 49:23 51:9 66:7,14
advice 11:25		Anchorage 71:21 83:5	Arvold 8:3	
advise 138:3		annoyed 158:18	Asia 163:8	
advisor 103:17 104:22 142:7		annual 55:2,16 56:13,15 126:12 129:17,24 130:10 136:6	aspect 82:21,23	
advisor's 104:23		answer's 91:25 140:3	aspects 126:16	
advisors 58:5,12 109:3 129:17,22,25 130:9 131:2 133:5, 15,17 134:17,21,23 136:12 137:2 142:5, 21 154:6 173:3,22 174:6		answering 106:14	asset 167:15	
advisors' 133:22		answers 86:20 138:17	assets 42:12 73:10 89:2 121:4,12	
affiliate 152:4 155:21		anticipated 47:5	association 8:4	
affiliated 58:4 146:23		anxious 173:19	assume 60:19 122:12,14 128:16,20	
affiliates 110:10 137:10 154:21 155:5		anymore 24:21 106:14 152:14	attached 98:9	
afield 38:16			attaches 108:16	
			attachment 108:21	
			attended 158:17	
			attention 62:15 63:4 151:9	
			attorney 11:5,6 12:4 134:9	
			attorneys 89:23,25 90:3,8 134:14 161:2	

B

81:11 82:3 94:21 96:5,9 97:5,8 115:11 127:10 133:6 149:21 150:4 154:3 163:6 166:23	benefits 54:11 55:3, 15 56:3,13,18 59:20, 25 binder 163:21 bit 131:8 139:7 board 71:14 105:20, 21,22 106:4,19 107:2,5 129:20 130:2,5,10 134:22 136:12 137:8,21 138:3,8 139:10,11, 13,22 140:12 141:5, 22 142:6 147:5,17,22 174:25 boards 131:2 138:13 141:11 bona 42:3,4 book 131:11 booked 93:13 110:4, 13,17 116:17 120:10 booking 110:19 books 93:14 borrower 81:2 borrowers 80:12 81:14 bottom 107:18 bought 83:7 boy 118:8 break 16:8,18 64:3,5 66:5,13 93:20 94:11 96:11,13,21 149:14, 25 150:8 163:5 Brian 54:22 60:23 bring 88:24 broad 28:5 65:5 broadly 152:10 buckets 52:5 53:9, 15,22 60:14 bucks 27:9 151:18 bunch 126:22 business 51:9 54:10 55:14 67:9 Bye 175:15	<hr/> C <hr/> calculated 140:19 160:22 calculation 100:21 calendar 154:12 call 43:7 96:2,24 100:20 161:16,19 called 41:11 54:11 112:9 158:17 Canty 10:17 13:13 55:22 59:18 82:7,11 85:20 94:24 98:10 107:11 108:22 116:21 119:2 123:5, 20 124:6,10 130:16 131:25 132:4,6,12 133:9 135:16 142:13 163:12 165:8 176:7, 11,15 capability 67:7 capacity 15:25 16:15 17:16 18:18 68:23,24 76:24 87:8,9 91:4 120:24 143:24,25 144:12 174:12 Capital 9:6 39:24 62:15 87:15 88:7,9 89:9 109:3 123:7 captured 83:2,13 care 175:13 carefully 50:7 carried 121:4,12,18, 22 122:3 case 8:20 12:8,17 162:8 cash 53:3 62:11 84:24 118:10 caused 41:17 70:12 169:20 caveats 144:4 CDT 176:18 cell 161:17 cement 167:15	Central 149:22 certificate 90:23 certified 8:3 certify 91:4 cetera 126:19 127:11 CFO 111:7 change 46:4,13 96:23 changed 92:23 136:9 changing 45:5 characteristics 43:24 characterizations 148:7 chart 31:16,18 98:8, 12,17 100:16 chat 132:13 check 160:14 162:21 Christian 108:7 circumstances 89:15 113:11 Civil 8:19 claim 101:14 102:16, 21,23 claims 141:23 142:7 clarification 84:12, 21,23 85:2 140:8 clarified 84:5 clarity 37:2 144:4 Class 39:9,19 40:8 41:4,18 43:20 cleanly 155:14 clear 15:10 36:18 51:3 103:23 140:2 144:8 Clemente 147:6 148:3 149:8 close 67:9 117:10,14 166:7 closer 47:24	Clubock 169:24 170:19 174:22 co-loan 108:4 code 51:22 53:2 colleague 77:5 colleagues 17:19 collect 90:15 142:24 collectively 143:20 Collins 54:17,22,23, 25 55:14 56:14 60:23 column 98:23 101:20,24 102:2,4 combination 61:6 commenced 14:10 109:17 120:7,12 121:11,13,16 142:25 143:5 commencement 29:9 110:15 149:6 165:14 166:5,14 167:8 168:15,25 169:11 170:12 comment 45:8 46:9 comments 26:25 committee 148:3,4 174:21 communicate 159:25 communications 11:15 161:7 companies 63:3,9 70:14,21 71:3,13 72:10,20 74:2 75:4, 17 82:16 84:22 88:21,22 151:13 company 49:23 71:18 compared 74:6 75:17 compensation 42:3 46:19 49:20 50:12 51:11,22,23 53:3,7, 11,18 54:2,11 55:3, 15 56:3,13,17,19 57:13,20 59:20 65:8, 14,23 146:25 147:8
--	---	---	---	--

148:10 166:18,19 167:14 170:22 171:15,18 174:24 Complaint 13:6 142:16 complete 122:16,20 completeness 126:18 compliance 133:14, 18 complied 100:3 complies 10:2,17 13:13 55:22 59:18 85:20 98:10 107:11 108:22 116:21 119:2 123:5,20 124:6,10 130:16 131:25 132:4, 6 133:9 135:16 142:13 163:12 165:8 comport 102:5 137:15 computer 94:25 concept 88:25 concerned 169:12 concerns 35:18 concluded 10:25 176:18 concludes 175:18 conclusion 12:4 condition 42:7,8 73:17 conditions 13:20 43:8 44:5,13,22 45:10,19,23 47:6 69:12,23 70:2,6,11 72:7 73:7 75:23 82:19 conducted 124:20 conference 96:7 confidence 100:3 confirm 160:8 161:2, 11 176:13 confirmation 142:20 143:2,6,11 144:14 145:7 150:9,17 151:3	162:11 confirmed 142:16 160:16 connection 12:17 63:17 99:16 101:15 126:12 129:24 130:10 167:24 consent 112:9,17, 20,22 113:3,6,13,21 114:9,12 consistent 19:23 99:3 consistently 38:8 consists 175:19 Consolidated 123:7 constitute 160:19 consuming 13:19 contact 115:2 contacted 41:7 contained 127:5 contend 69:8,10,20 169:12 content 11:21 contentious 85:7,8 context 119:12,13 138:18 147:13 167:23 168:3 continuation 10:21 continue 19:12 contracts 129:17,21 contributions 88:2 control 25:11 42:17, 25 43:5,14 78:11,20 83:8,11 144:12 151:14 156:15 157:6 controlled 35:3,4 155:22 conversation 83:3 151:11 152:25 160:12 161:22 conversations 81:12 85:10 105:21 106:5 110:18 144:22,	23 152:12 162:6,10 167:18 170:19 coordinates 126:15 copies 76:14 77:9 154:4 copy 64:8 77:17 108:16 131:11 Cornerstone 70:22 72:2 74:19 75:7 83:9 167:2 corporate 107:19,22 108:2,12 110:7 117:4,9,17 correct 18:9,10 19:2, 3,15 23:14 27:19 29:2,3,6,7,11,12 32:14 33:20,21 39:25 40:13,17,20,23 41:5, 9,14,20 42:18 43:2 44:14 45:19 55:4 56:20 57:5,6 69:23 70:3,23 71:4 73:17, 19 76:12,16 77:11 99:18 109:18 111:9 117:20 127:18 129:18,22 130:2,6 139:19,25 166:9,10 170:7 172:13,24 correction 54:24 171:19 correspondence 95:4 107:13 116:23 172:12,22 cost 70:14 73:19 74:2 76:7 83:9,13 costs 74:6,15,18 75:4,9,18 counsel 9:12 12:22 17:25 66:16 93:19 117:19 133:22 134:8, 10 137:2 161:7 counsel's 11:25 counterproposal 84:20 couple 17:20 58:22, 24 71:21 89:23 96:3 134:5,6 court 9:7,22,24 18:10	25:18 94:17 142:15 144:17 145:3,7 146:2,12,17 147:11, 15,18 148:10 149:12 150:11,15 160:12 175:21 176:4,7,12 courtroom 8:17 covered 14:8 28:13 129:14 covers 14:14 83:22 COVID-19 8:6 create 45:10 created 29:9 35:10 110:8 168:14,25 169:7,11 creating 72:13 118:21 credit 127:11 153:25 credited 118:16 creditor 168:20 169:19,25 170:8,9 171:12 creditors 147:21 148:2 169:22 170:17 171:14 critical 93:3 cure 155:6,7 156:19 158:20 159:10 160:9, 19,22 161:5,24 162:4,16 cured 154:18,25 155:2,25 156:11 158:25 161:12 current 154:17,24 155:24 156:9 158:21 <hr/> D <hr/> D-CNL000212 123:10 D-CNL000257 123:10 D-CNL003585 56:4 D-CNL003587 59:21 D-CNL003763	116:23 D-CNL003764 119:4 D-CNL003765 119:5 D-CNL003768 95:4 D-CNL003770 95:5 D-CNL003777 107:13 D-CNL003779 107:14 daily 110:8 176:8 date 15:17 22:9 24:10 25:5,12,22 26:6 27:7, 13 31:12 49:12 56:6 59:23 70:25 72:18 95:6 107:15 116:25 119:6 123:12 124:20 125:2 130:20 135:13 138:19 163:18 173:7 dated 97:15 108:25 119:23 123:9 130:18, 22 David 97:20 day 12:8 13:8 66:22 67:2,19 76:22 77:6 90:20 107:17 111:20 127:24 164:13 DC 134:8 DC's 134:8 de 51:24,25 158:19, 23 Debbie 10:11 Deborah 14:17 19:6 63:24 66:5 95:11 debtor 42:12 160:17 161:4 debtor's 41:24 42:5, 17 43:2 142:16 December 20:21 23:4 25:2 47:8,12 48:9,17 49:5 109:21 122:24 123:9,15 129:4 151:9 152:25 153:5,19 154:15,22, 25 155:6,20 156:6, 13,20,23,25
--	---	--	--	---

decides 129:21	101:5 103:7 106:24 111:10 113:7,16,24 114:22,25 115:7 116:5 117:21 125:8 127:22 129:7 131:10, 13 134:24 136:14 137:11 141:24 142:8 143:12 144:9 145:10, 19 150:22 152:5 155:8 157:2 158:8 160:3 161:6 164:2,12 165:16,22 170:14 172:2 175:14,24 176:6	detail 31:22 32:20 125:21 164:24	85:3	15,21 116:1,2 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1,6,18 132:1 133:1 134:1 135:1 136:1,25 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1,4,8 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1,20 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1,17
decision 17:18 61:9 113:14	delivered 139:22 147:14	details 21:13 26:16 85:5 99:19 143:15	disruptive 92:19,20	Dondero's 18:17 96:8 114:21 163:10, 14
declaration 159:4	delivery 176:9	determine 73:24 110:22	distancing 8:8	drafted 46:24
declared 157:13	demand 14:17 28:20 45:14,18 109:20 156:3,7,8 157:24	determiner 106:16	District 9:8	drafting 125:16,18
declaring 157:16	demanding 45:23	devote 62:14	doc- 29:17	dual 60:24
decreased 52:20	denial 173:17	devoted 63:4	document 10:15 13:3 19:13 29:8 32:17 54:11 56:8 57:9,14 59:12 63:13 66:6,18,21 93:23 97:11 109:11 124:4 131:7,11,21 132:11 164:5 168:14,25	due 8:6 42:2 79:24 80:3,17 102:18 103:10,12 118:17 135:20 151:12 152:2
deemed 8:25 161:5, 12 162:16	denied 166:9 174:7, 20 175:3	difference 67:11 116:6	documented 87:6 88:3 147:7	Dugaboy 13:18 19:17,19,22 20:2,11, 19,25 21:2,8,12,17 22:2,11,19 23:3,8,13, 17,22 24:8,13,18 25:2,14 26:2,7 27:6, 12,18 28:8 29:19,25 30:8,14,23 31:4,9,22, 25 32:2,4,7,8,12,14, 19,22,23 33:2,12,14, 18,25 35:4,8 36:3,6, 12 37:5,6,17,20 38:9, 12 39:7 40:7,13,15, 23 41:3,12,17 42:16, 24 43:14 44:11,21 45:17 47:19 49:5,19 50:11,18,20 51:6,7, 17 52:2,8 53:10,13, 17,25 54:5 56:24 57:5,8,13 58:17 60:6, 9 64:18 65:6 73:11
deeply 166:21	denying 167:6 174:14	differentiated 61:3	documents 53:24 54:6 127:11 147:10, 14 163:22 169:10	
default 157:10,14,16, 19 158:5,15 159:4 161:13	dependents 134:12	diminishing 61:14	dollars 52:9,17	
Defendant 163:13 173:2	depending 128:6	direct 11:10,22 65:20 105:3 151:4,8 155:19	Dondero 8:1 9:1,5 10:1,20 11:1 12:1 13:1,4 14:1 15:1 16:1 17:1 18:1 19:1,12,25 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1,3 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1, 18 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1,3 57:1 58:1 59:1,20 60:1 61:1 62:1 63:1 64:1,17 65:1 66:1,18 67:1,21 68:1,22 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1,6 80:1 81:1 82:1,15 83:1,18 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1,20 95:1,8, 10,12 96:1 97:1,5 98:1 99:1 100:1 101:1 102:1,3 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1,	
defendants 143:20 144:16 145:6 150:10, 18	depends 114:3	directly 88:22 96:6 147:6,21 148:2 151:13 156:15 157:6		
defendants' 162:13	deposed 12:20	directors 25:21		
deferral 42:4	deposition 8:10 9:5, 9 10:21 11:2,7 12:5 13:25 16:5,7 18:17, 21 26:15,21,23 31:20 38:17 66:19 67:15 76:21,22 78:21 94:20 109:6,9 120:15,22 127:24 150:4 175:18 176:17	disclose 56:22 57:7 60:4,8 161:7 166:12		
deferred 57:13	describe 15:12 57:12 84:6 89:15,21 130:25	disclosed 59:10 79:22 122:22 128:13 144:16 145:6 150:19 165:12 166:6 168:20 170:10 171:11		
defined 166:13	describes 13:17	disclosure 71:22 139:7 145:3		
definition 36:23	describing 31:5 88:13 91:17	disclosures 138:22		
degree 28:12	description 73:9,10	discovery 163:11 173:21		
degrees 75:5,6		discretion 113:23		
DEITSCH-PEREZ		discuss 41:8		
10:7,12 11:9,16 14:19,22 15:2,6,19 16:6,19,24 17:7,10, 23 18:11,15 19:3,18 20:12 22:20 26:9,22 27:20 28:10 34:5,24 35:22 36:9 37:7 38:15,22,25 39:10 42:19 43:3,16,25 44:15,25 45:20 46:6, 16 48:19 50:13 52:11 53:20 59:13 60:11 62:9 64:2,11 65:15, 24 66:24 67:10,22,25 68:6,15 69:15 70:15 71:5 72:22 76:2,18 77:12,25 78:13,17,23 79:4,10 80:11 83:25 85:25 87:19 88:10 89:17 91:6 94:9 96:5, 20 97:4 98:19 100:10		discussed 57:18 167:2		
		discusses 172:23		
		discussing 119:12, 14 153:23		
		discussion 11:21 49:17 78:19 83:4 84:5,11,21 85:2 108:8 115:10 167:23		
		discussions 50:9 77:21 79:6,15,21		

75:15,21,24 76:11,15 77:8,17,22 78:5 79:7, 15,21 80:22,25 81:4, 5,6,12 82:24 84:10, 14,20 137:24 138:10 139:25 144:18 145:9 146:3,13,19 148:14 149:9 167:11 170:12	end 20:20 49:9 66:22, 25 67:18 94:2 96:8 124:19 154:12	estimated 99:4	experts 89:24	filing 145:18 147:20
duly 10:5	ending 122:24 129:4	evening 175:12	explained 143:15	filings 145:22
Dustin 153:9	ends 89:3	events 122:24 124:14,17	expressed 76:7	final 136:19
<hr/> E <hr/>	enter 19:17 20:2,7,18 23:2 24:25 31:24 32:6 41:13,19	everybody's 9:17 175:22	expressing 76:6	Finally 89:17
e-mail 19:9 63:24 64:8 68:2,4,9,12,18 95:3 97:14,19 107:12,18 108:11,16 116:22 117:4 160:15 172:22	entered 13:18 20:5, 11,25 21:16 22:17 25:13,21 26:6 27:5, 12,18 28:8 31:3,8 33:11,24 39:8 40:5,9, 16,20 41:2 42:13,15, 23 44:11 45:16 47:8, 18 49:4,12 50:20 53:13 73:21 74:7,12, 19,25 75:24 81:3 137:24 138:9 139:24 145:8 146:3,12,18 148:14 170:11	exact 85:15 100:4,5 112:12	extent 11:19 104:6, 12 122:17 169:25	finance 100:7
e-mails 172:14	entering 32:11 43:12 46:13 51:6 53:12,19 54:2,6 73:4 75:18 76:12,16 77:10,18	examination 10:18 12:23 93:23	external 58:14	financial 32:23 33:3 120:16 122:7,23 123:8 126:7 128:10, 14 129:3
earlier 12:16 27:16 51:20 59:5 60:15,16 118:15 134:4 166:17	entities 28:18 30:25 36:3,14 38:13 52:22 61:2,7,18,22 62:3,18, 19 79:25 80:17,20,23 81:17,18,23 88:12 89:3	examined 10:5 12:16,19	<hr/> F <hr/>	financials 31:21 32:19 122:16 123:16 124:13
early 20:21 23:5 25:3 91:12,23 110:24 111:19,25 112:5,10 157:9	entitled 14:23 124:13	exceeded 74:2 75:4	fact 41:17 75:7 82:5 99:15,21 111:20 119:8 153:11 162:20	find 46:19 64:13 173:24
easiest 68:7	entity 35:5 40:9 60:21 81:13 156:14 157:5	excused 176:16	facts 70:5	fine 44:7 64:12 149:21
Eastern 66:8	entry 50:19 85:11 125:13	executed 24:11 30:13	fair 12:11 13:21 14:4 42:10 51:23 57:4 70:7 74:11,24 75:12, 13 101:4 110:14 113:19 125:19 127:15 130:25 148:17	finish 66:9 116:10 149:19 150:7 156:22 173:19
easy 64:10	equal 99:12 112:9	executive 126:17	faith 100:3	firm 63:25 67:7 125:23 127:10 128:5 176:10
educated 118:8,12	equity 63:8 71:17	exercise 42:25 43:5 113:23	fall 53:8,14,22	fiscal 124:19
educted 118:9	error 99:17 100:9,19 101:15 102:8 104:18 105:5,9,13 106:23	exercised 43:14,19	fallen 52:4	five- 63:22
either/or 69:4	Essentially 92:2	exercising 42:17	familiar 9:16 34:15 102:20 126:10	fixed 116:3
email 172:11	estate 86:25 89:10, 24 90:4,7 134:6,10 148:9 167:16 170:22 172:15	existence 109:11 138:4 144:17 145:7 146:17 148:13 165:12 168:16 169:3, 13 170:10 171:11 172:23	fastest 64:14	floor 96:9
Emanuel 10:10	estimate 85:16	existed 122:19	fault 33:8	focus 120:20
embedded 72:8 75:9		existence 109:11 138:4 144:17 145:7 146:17 148:13 165:12 168:16 169:3, 13 170:10 171:11 172:23	February 47:13 48:10,18 49:6 142:17 143:7 155:3	focused 120:24
employee 56:20 88:20		existing 38:3	Federal 8:18	follow 11:24 77:4
employees 54:12 55:4,16 56:15 60:24, 25 125:16 135:7,9 151:20		expectation 147:7	fee 112:9,17,20,22,23 113:3,6,13,21 114:9, 12	follow-up 28:5
employees' 88:14		expenses 104:10	feed 116:3	force 71:17
empowered 160:6		experience 104:21	feel 167:19	forgive 31:25 39:20
encourage 112:23		experienced 90:3	fees 101:9 103:24 104:7,9	forgiven 69:11,21,22 70:12 166:19 170:21 171:15,17 174:23
		expert 12:15,18 45:8 59:6,11 65:12,21	fide 42:3,4	forgiveness 13:19 32:13 33:13 51:20 81:7,8 101:9 103:24
			figure 68:9	forgiving 167:13
			file 101:14	form 27:21 28:11 34:25 36:10 37:8 42:20 43:4,17 44:2, 16 45:2,21 46:7,17
			filed 142:20	

Index: formally..identify

48:20 56:12 59:14 60:12 62:10 65:16, 22,25 66:17 69:16 70:16 71:6 72:23 76:3,19 77:2,13 78:2, 9 79:11 84:2 86:2 87:20 88:11 91:7 98:20 100:11 101:6 103:8 111:11 113:8, 17,25 117:22 125:9 127:23 129:8 134:25 136:15 137:12 141:25 142:9 143:13 145:11,20 150:23 152:6 155:9 157:3 160:4 165:17 172:3	funding 100:23 102:18 funds 83:10 129:18, 20 134:2,18 135:11 future 135:21	growth 51:10 guess 31:7 40:4 42:6 48:23 55:11 80:4 118:12 143:16 144:20 157:13,19 171:8	90:11 heading 124:9 hear 115:15,16 heard 157:19 hearing 143:2,6 145:17 146:16 158:16 held 9:9 35:8 41:3 72:10 73:12 111:7,8 115:10 helpful 89:13 helps 141:19 Hendrix 97:20 108:15 117:4,8,12 Hendrix's 108:15 hidden 104:20 High- 126:25 higher 74:9,10,15,22, 23 75:8 Highland 9:6 14:10 15:15 25:12 32:2 34:16 35:9,19 36:14, 17,22,24 37:18,21 38:10 39:24 40:10 41:14 46:20 51:13,25 52:12 54:10 57:25 60:20 61:5,13,16 62:6,15,21,22 63:7 70:13,18 71:16 72:25 79:18,25 80:4,17 85:24 86:8,15,18,24 87:2,5,9,15,17 88:2, 7,8,19,23 89:4,8,25 90:3,6,14 91:13,22 92:20 93:13,14 102:24 104:15,17 105:4,9,12,25 106:3, 4,22 109:2,19 110:2, 10,22,24 111:7,21,24 112:4 113:5 114:5,13 116:16 118:9,11,15 119:9,15,16,18 120:6,9,25 122:9 123:6 125:15,25 127:4,12 128:24 129:6 134:14 135:5, 11,23 137:9,18 139:2 140:14,24 141:23 142:7 151:12 152:2,3	153:6 154:6 155:5,20 156:7,13 157:7,10, 13,21 158:6,15 159:9,12,15,16 166:3 172:15 Highland's 33:3 41:4 55:4,16 56:15 72:9,13,15,19 73:25 74:5,14 75:3,16,17 120:15 121:5 122:7, 22 126:12 154:21 170:9 Highland/nexpoint 61:6 hindsight 50:3 hit 19:10 hold 40:2 58:2 96:4 holder 83:5 holders 39:19 43:20 71:21 holidays 47:25 48:12 Honestly 56:25 hope 66:23 67:6 78:14 149:16 152:14 hour 68:5 149:18,19 housed 105:25 Human 54:14,18,20 hundred 60:20 126:23 127:9
formally 147:3 format 56:16 Fort 92:4 forward 146:22 forwarding 97:19 foundation 121:20 fraction 24:19 Frank 90:16 92:12,14 108:11 126:8 151:11 158:17 159:12,14,19 160:5,22 162:14 165:13 166:7,14,21 167:7 169:25 Friday 10:22 11:2,8 Friday's 12:23 front 17:15 18:25 19:14 133:6 163:21 frozen 114:21,23 fulfillment 69:12,22 full 62:14 fully 103:21 104:3 160:6 function 111:13 functions 129:11 135:10 fund 72:5 97:25 98:5, 17,24 99:5,11,15,21 100:2,8,17 103:21 104:3 109:3 funded 103:4	<hr/> G <hr/> GAF 97:22,24 100:18 102:6,18 103:21 104:4 105:12,22 106:3,21 gave 50:23 51:5 92:17 93:6 104:6,12 122:9 136:12 137:17 152:22 153:19 157:10,16 174:16 gears 85:17 129:16 general 50:17 128:3, 7 133:22 134:9 151:23 generally 14:5 28:16 53:8 56:21 83:22 92:15 110:5 111:13 112:2 119:20 120:19 142:18 143:16 144:20 148:10 151:15 170:17 171:9, 10 give 68:8,10,15 75:14 90:12 92:5 94:25 115:2 151:24 162:19 give-and-take 92:23 glad 16:12 good 8:2 94:16,17 149:13 155:24 175:12 grant 43:7 granted 44:4 63:16 gratuitous 26:25 greater 47:17 gross 21:18 57:17 group 54:15,18,21 107:19,22 108:2 110:8 117:5,18 125:25 126:6,8 166:21	<hr/> H <hr/> half 149:18 hand 9:25 handled 38:7 handles 126:9 hang 114:25 happened 44:8 48:12 Hayley 108:7 haywire 94:25 HCMFA 62:21 90:15, 24 91:5,14,23 92:20 93:2,13 97:22 99:10, 11,15,21 100:7,17 101:14,20 102:6,16 103:20 104:2,11,13, 16 105:8,11 106:3, 21,22 107:23 110:2, 22,24 111:8,21,24 112:4,8,17 113:2,6, 14 114:7,12 116:16 118:11 119:14,18 120:6,10,25 125:2 128:10,13,20 129:6 134:13 135:6,23 140:12,23 141:6,10, 21,22 143:19 144:7, 11 HCMFA's 93:14 121:19,22 122:4 128:23 129:3 HCMFAS 130:19 HCMLT 107:23 HCRE 14:10 62:21 81:22 85:23 86:3,5, 14,17 87:10 88:15 143:19 157:22 head 22:23 24:4,5 26:8 27:23 29:22 31:14 54:17,20 63:5	<hr/> I <hr/> idea 61:20 62:4 102:25 identification 56:5 59:22 95:6 107:15 116:24 119:5 123:11 130:20 163:17 173:6 identified 30:22 80:8 81:22 90:23 108:12 identifies 29:10 identify 21:10,14 22:9 23:15,20 24:10 26:4 28:6 29:23 30:6 31:11 33:22 34:9 47:17 62:19 63:3	

77:22 79:7,16 80:2, 19 81:13,14 84:18 104:21 106:11 156:12 169:19 172:11,22 II 9:4 94:19 175:18 illiquid 72:14 84:24 illiquidity 75:13 imagine 141:14 immediately 14:18 160:23 imminent 73:14 impact 44:9 implied 75:9 impossible 42:9 improperly 122:18 inability 78:20 inaccurately 129:4 inappropriate 17:6, 12 include 84:15 124:17 139:6 included 84:9 108:11 153:24 166:20 includes 140:21 including 92:25 incorporate 86:19 increase 51:21 incumbency 90:23 91:4 incurred 28:17,20 independent 25:20 147:5,16,21 174:25 indirectly 147:4 151:13 156:15 157:6 individual 15:25 16:16 17:16 38:18 68:23 120:23 143:24 144:12 174:12 individuals 88:16 industry 46:20 51:12	53:4 ineffective 147:25 inform 25:17,20 105:3 138:12 151:4 162:13 information 15:8 49:19 50:11,18,23 51:5 56:23 60:5 75:15 123:9 127:5,13 129:25 131:3 informed 99:11 104:16 105:8,11 108:2 137:8,21 138:7 141:5 142:5 146:16 150:10 informing 141:22 infrastructure 135:4 initial 138:23 initiatives 51:10 63:7,10 input 87:3 insist 26:12 instruct 55:6 92:10 138:2 139:9,10 140:4 instructed 92:7 107:21 110:2,23 152:20 instructing 92:14 instruction 152:22 153:18 instructions 92:5,17 93:6 151:25 insurance 101:8,14, 18,22 102:16,20,23 103:4 112:13 integrity 126:19 intended 56:18 intent 46:15,18 intentionally 47:4 inter 108:3 interaction 126:9 interest 22:5 34:16, 23 35:2,5,9,18 36:8, 19 37:5 41:4 70:13	118:17 154:10 156:10 interests 72:9,10,13, 19 73:25 74:5,14 75:3,16 interpretation 44:5 100:25 Interrogatories 163:16 165:10 173:5 Interrogatory 171:23 172:12 173:16 interrupt 144:25 interrupting 145:11 Interruption 115:22 interval 49:9 introduce 9:12 investment 98:2 investors 98:6 103:10 involved 49:25 66:3 92:8 129:10,12 156:16,17 166:22 iphone 68:13 irrelevant 139:17 issue 70:22 77:18 92:3 93:4 169:8 issued 38:4 42:5 125:2 140:23 issues 141:16 items 104:13 <hr/> J <hr/> Jacob 8:3 James 8:1 9:1,5 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1	47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1,2 57:1 58:1 59:1,19 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1,20 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1,4 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1,14 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1,17 January 25:9 48:18 49:6 143:6 155:2 156:19,22 157:12,14 158:6 159:10,24 161:23 162:15 Jernigan 148:12,20 150:19 151:4 162:4, 14 Jim 118:5 149:8 job 77:4 John 17:8 26:9 38:15 66:25 67:11 68:18 76:20 80:12 82:7	96:10 114:22 132:13 164:13 Johnson 12:7,9 Johnson's 12:12,13 Jones 161:3 judge 106:15 148:12 150:19 151:4 162:4, 14 June 123:24 137:9 140:14 <hr/> K <hr/> kind 52:20 81:9 139:17 141:13 167:15 Klos 97:20 107:18 Klos's 108:16 knew 40:19,22 45:9 49:22 74:9,13 79:24 80:21 81:17,18,19,23 166:23,24 167:7 knowing 136:18,20 139:21 knowledge 12:12,13 37:22 69:25 70:4,10 109:15 127:6 140:18 Kristin 97:20 108:7 122:17 <hr/> L <hr/> L.P. 9:7 36:24 39:25 58:5,13 62:16 88:9 89:9 109:3 123:7 L.p.'s 173:3 ladies 96:6 large 71:21 72:14 largely 71:25 largest 83:5 lasted 85:10 late 120:3 130:8 164:12 lawsuit 29:14 35:21
--	--	---	--	--

lawsuits 14:9 29:10, 16 30:3,10,16 33:20 34:2,21 39:5 142:24 143:5,10 150:12,20 lawyer 160:2 lawyers 134:6 161:10 leadership 87:5 88:2 learn 120:5,9 121:3, 9,11,17 122:2 158:14 learned 109:10,25 110:4 learning 159:3 leave 67:3 97:3 115:6 leaving 175:22 led 41:8 49:18 50:9 85:10 left 38:2 95:12 legal 8:4 45:5 133:14, 18,25 134:12 legally 146:21 let alone 26:19 letter 57:4 60:22 127:18,21 136:20,25 138:19 141:15 letters 57:2 128:23 129:13 136:19 138:22 139:5,6 157:21 liabilities 121:19,22 122:4 life 15:5 likelihood 73:6,8 75:22 Limited 34:17 36:22 liquidity 72:13 list 14:24 18:22 21:13 26:10,17 28:9,24 29:5 110:8 listed 134:2 listen 50:7 78:18 148:6 listing 15:14	litigation 31:11 107:6 109:14,16 110:6,16,19 120:7,12 121:8,10,13,16,25 122:3 149:7 167:9 litigations 38:19 loan 15:16 38:9 93:13 110:4,14,17 116:17 117:10,13,24 118:15, 21 120:5,11 loans 21:20 28:19 38:12 129:6 158:2 logs 49:16 Loigman 10:8,9 long 73:12 85:4,9,10 93:24 96:16 162:23 166:17 longer 78:21 85:13 looked 13:8 27:15 50:2 164:24 loose 47:4 loss 98:17 99:4,13 103:6 losses 99:17 lost 98:24 115:2 lot 86:21 89:24 91:15 162:7 lots 170:18 loud 168:23 low 49:22 52:20 lower 83:8 LPA 169:14 175:7 lucky 96:6 Lynn 144:22	159:10 161:4 162:4 major 20:14,19,24 21:7,11 majority 34:16,23 35:2,4,8,18 36:8,19 37:5 39:9,18 40:7,8 41:4,18 43:20 72:3 83:6 make 13:15 15:10 17:12,17 29:4 46:19 65:4 67:12 92:7,10 99:11 101:3 102:16 113:23 114:8 116:5 118:19 140:9 144:8 152:20 155:20 158:21,24 maker 21:10 23:15, 20 26:4 29:23 31:12 32:2,8 33:18 36:3,7 37:6,17,20 79:16,18, 22 80:9 81:2 109:2 maker/borrower 80:14 makers 27:10 46:25 makes 119:11 making 26:12,24 100:18 manage 129:18 management 9:6 39:24 62:15,22 87:5, 16 88:7,9 89:9 92:25 103:24 104:7,9 109:3 123:7 127:18,21 128:22 129:13 manager 58:14 managers 135:6,8 manner 100:17 Mark 54:17 marked 10:15 56:5 59:22 95:5 97:11 107:14 116:24 119:5 123:11 130:19 163:17 173:6 market 89:5 material 82:17 106:4 124:18 135:20	materially 84:4 math 103:3 Matt 149:8 matter 9:5 55:11 75:6 103:2 146:15 153:11 Mcgraner 86:6,21,24 87:2,23 meaning 20:21 98:4 134:8 means 11:18 meant 131:19 mechanisms 167:12,14 media 9:3 93:20 94:2,19 150:3 175:19 meeting 105:21 meetings 106:19 130:4 member 71:14 members 117:17 memo 130:9,22,25 131:2 132:24 133:4 134:17 135:13 136:3 Memorandum 130:17 memorialize 160:24 memorialized 49:12 161:22 memory 26:13 memos 134:21,23 136:5 mention 102:24 message 66:17 met 45:24 MGM 70:22 71:14 74:6,14,16 75:11 83:4 167:2 Michael 77:5 95:23 middle 103:15 million 22:4 24:20,23 27:8 52:9,17,23,24 58:2 61:5 62:6 90:17	91:11,13,23 92:6,11, 14 93:12 99:6,16,22 101:22 102:7,17 103:5,17 104:2 107:23 109:2,25 110:13,20,23 111:17, 21,24 112:4,10 117:9 119:10,14,16,23 125:4 129:5 137:10, 22 138:13 140:13,22 141:6,7,12 151:17 mince 104:5 mind 154:12,15 168:8,9 mine 96:19 minimis 51:25 158:19,23 minimum 76:5 minus 51:25 minor 20:16 minority 72:4 minute 17:14 68:8,16 94:2,13 95:2 96:17 115:2 127:8 minutes 12:6,22,24 17:20 93:20 96:3 105:20 107:3,5 149:22 162:21 170:2 mistake 49:2 114:13 moderately 74:21, 23 75:8 modest 51:11,21 modification 45:6 modified 136:4 moment 38:8 58:21 125:13 162:20 174:13 monetization 72:12 73:13 84:23 money 80:25 93:2,10 99:12 101:2 104:2,14 119:18 monies 101:10 month 147:19 months 147:20
--	--	---	--	--

Morris 8:21 9:14 10:14,19 11:12,23 13:2,11,14 14:17,20, 25 15:4,9,11,22 16:11,22 17:2,9,21 18:2,4,7,16,24 19:5, 11,24 20:15 22:24 26:18,23 27:2 28:2, 23 34:8 35:7 36:5,15 37:16 38:21,24 39:2, 3,15 42:21,22 43:9, 21 44:6,19 45:11 46:2,11,22 48:24 50:4,6,16 52:15 53:23 55:20 56:7 59:16,24 61:8 62:13 63:23 64:6,16 65:19 66:4,16 67:5,14,20, 24 68:3,14,19,21 69:17,19 70:20 71:9 73:3 76:9,23 77:7,15 78:8,15,19 79:2,5,13 80:18 82:5,9,13,14 84:7 85:18,21 86:9 88:4 89:6,20 91:9 93:17,21 94:4,7,10, 14,22 95:7,11,16,19, 22 96:14,22 97:9 98:8,11,22 100:14 101:11 103:14 104:24 105:2 106:6,8 107:4,9,16 108:20,23 111:16 113:12,18,20 114:4,20,24 115:5, 13,25 116:7,9,12,19 117:2 118:2,24 119:7 123:3,13,17,21 124:3,7,11 125:10,11 127:25 128:8 129:15 130:14,21 131:12,16, 17 132:7,14,16 133:10 135:14,17 136:23 137:14 142:3, 11,14 143:17 144:10 145:13,24 149:15 150:6 151:2 152:9,18 155:10 157:4 158:13 160:7 161:8 162:19 163:8,19 164:4,15,17 165:7,9,19,24 170:23 172:6 173:8,12,14 175:9,13,15 move 37:2 38:20 50:4 104:24 106:6	movement 93:10 moving 99:8 multiple 61:2 63:7 83:10 138:25 153:22 mute 115:16,17,21 <hr/> N <hr/> Nancy 39:18 40:12, 15 41:8,11,16 49:19 51:16 56:23 57:8,12 58:16 60:5,8 64:17 65:6 76:10,15 77:8, 17,21 78:4 nature 13:22 58:8,11 NAV 99:17 100:8,19 101:15 102:8 104:18 105:5,9,12 106:23 needed 96:11 104:3, 14 119:14 negotiation 83:24 84:4 85:8 negotiations 92:22 net 112:12 Newman's 10:11 Nexpoint 14:11 23:25 58:4,5,12 61:16 62:6,21 63:12 64:19 80:22 81:19 89:7,8,23 90:7 134:4, 12 135:7,24 137:8, 17,20,21 138:3,7 143:19 157:22 173:3, 21 174:5 Nexpoint's 138:8 NFLP 63:20 nomenclature 80:15 normal 156:17 Norris 153:9 Northern 9:8 note 14:14 21:11,15 24:7 26:5 28:6 29:24 30:7,13 32:2,8,13,20 33:13,18,23 34:10 35:15,19 36:7 37:6, 18,20,25 38:2,3,4	42:3 44:13 45:6,18, 19 46:5 47:13 48:10 91:11 96:10 108:8, 17,25 109:16,21,24 111:18 117:18 118:17 119:4,17,22, 23 137:17 154:20 notebooks 15:7 notes 13:20 14:9,15, 24 15:14 18:23 20:3, 5,23 21:7,24 22:10, 14,17 23:7,11,16,21 24:11,16 25:14,24 27:4,10,17 28:20,25 29:5,10,13,15,17 30:2,15,21 31:5,10, 12,23 32:25 33:2 34:20,22 35:20 36:2, 13 39:4,6,20 41:23 42:11 43:15,24 44:23 45:13,14 46:14,23 47:4 51:21,24 69:8, 10,20 70:12 76:11,15 77:10,18,23 79:8,16, 23,24 80:3,9,16,24 81:6,7,15 90:15 91:11,16 92:2 120:21,25 121:4,11, 15,18,21 122:3,10,22 125:2 128:14 135:21 140:23 142:25 146:23 147:8 148:8 150:12,20 151:5 152:7,17 154:10 155:23 156:3,4,8 157:11,24 158:7,24 161:13,20 166:17,18 167:14 169:8 170:20 171:14 174:23 notice 148:11 157:10,16 notice-of-default 157:21 notices 158:5,15 notifying 148:10 noun 70:18 November 9:10 154:7 number 9:3 23:11 64:22 66:22 94:2,19 136:13 140:19 150:3	163:23,24 166:2,8 168:11,13,22,23,24 169:19,21 171:23 172:9,13 173:9,16 174:4,7,10,15,19 175:3 numbers 50:3 99:8 100:4,5 102:13 104:6 158:22 numerous 30:18 36:2 38:12 41:25 60:24 105:17 107:2 144:21 NXRT 57:21,24 <hr/> O <hr/> object 15:4 16:11,12, 13 17:21 27:20 28:10 34:24 36:9 37:7 42:19 43:3,16,25 44:15,25 45:20 46:6, 16 48:19 59:13 60:11 62:9 65:15,24 69:15 70:15 71:5 72:22 76:2,18 77:2,12,25 78:6,10 79:10 83:25 85:25 87:19 88:10 91:6 98:19 100:10 103:7 111:10 113:7, 16,24 117:21 125:8 127:22 129:7 134:24 136:14 137:11 141:24 142:8 143:12 145:10,19 146:7 150:22 152:5 155:8 157:2 160:3 165:16 172:2 objecting 78:9 objection 26:19,20 101:5 objections 142:19 163:14 173:3 objects 8:22 obligation 138:8 obligor 80:25 obtain 71:4 72:21 obtained 136:25	obvious 50:2 51:3 occur 73:7 124:18 159:24 occurred 70:2 October 130:18,23 133:18,23 136:11 137:3,7 138:20 139:13,22 141:15 odd 22:4 office 19:7 151:20 officer 87:10 officers 133:18 offset 138:14 141:12 Okada 87:24 one-off 170:19 ongoing 168:6 opinion 45:7 order 33:10 103:21 104:3 175:23 176:8 ordinary 54:9 55:13 organization 111:14 original 15:15 24:6 originally 46:24 outs 148:2 outstanding 28:21 38:3 119:17 137:16 138:8 140:13 155:23 overarching 13:21 overpaid 151:16 overpayment 154:2 oversee 111:4 overstated 141:6 overview 13:21 owed 80:25 137:9 owing 152:2 owned 72:4 97:25 155:21 157:6 owner 87:10 owners 87:22
---	---	---	--	--

Index: ownership..provided

ownership 83:10 88:15,18	pay 112:17 114:8 151:25 152:12,16 174:22	96:15 160:12 161:17	preferred 86:4	proceeding 165:14 166:5,15 168:15 169:2,12 170:13
P	payable 15:14 135:20	photograph 64:8 66:17	premarked 56:9	process 71:23 122:11 130:6,11
p.m. 9:11 175:20 176:18	payee 32:3 35:19 37:18,21 80:9	phrase 13:25 36:19, 21 150:14	preparation 126:3 167:24	produced 14:18 107:6
Pachulski 161:2	paying 99:12	picks 104:22	prepare 55:15 108:7	producing 67:8
page-- 13:11	payment 91:20 97:22 98:3,5 100:8, 18 101:3 102:18 103:16,22 104:3 109:20 113:13,21 118:16 153:6 154:22 155:6,7,20 156:7,12	picture 15:20 16:20 53:2 64:3,15 68:7	prepared 54:10,14 56:14 117:19	product 125:23
paid 52:21 99:15,21, 25 101:17 102:6 104:10 110:2 112:8 113:3,6 114:12 119:9,16 153:25 154:17 158:19,24 160:18,23	payments 151:12 152:10,15,21 154:5, 9,11,14 156:18,19,24 159:9,11 160:18 161:4,5,12 162:4,15, 16	piece 93:4	preparing 55:2 133:4	production 66:20,21 163:17 173:6
painfully 172:15	pending 8:20 30:3,9, 16 31:10 33:19 34:2, 20 35:21	place 71:20 135:13 143:7 161:18,19	prepaying 38:2,5	professional 77:4
paint 53:2	people 67:3 148:19, 24 153:14,24	places 105:17	prepays 37:25 38:7	promise 67:18
paper 117:13 173:13	percent 35:3 57:16 60:20 71:16 96:24 126:23 127:9	plaintiff 39:19,20,23 40:9 41:19	present 42:7 69:13	promissory 13:19 20:3,23 21:6,15 22:10,14,17 24:11 25:14 28:6 29:13,15, 17,24 30:2,7,13,15, 21 31:25 32:8 33:18, 23 34:10,13,19,21 35:15,19 36:7 37:6, 18 39:4,6 41:23 42:11 43:15,24 44:13,23 46:14 76:11,15 77:9,18,22 79:8 108:8,17,24 109:16,21,24 117:18 119:3,23 122:10,22 125:2 150:11,20 151:5 169:8
paragraph 13:3,12, 17 14:3 39:16 47:10, 20 48:8 81:25 82:10, 17,25 83:14,18 124:24 141:19 171:6	performance 57:22 63:17 89:2	plaintiff's 13:5 163:15 173:4	presented 147:11 148:25	propel 51:10
parenthetical 118:4	performed 106:2 134:14	plan 142:20 146:22 148:23 166:22	president 61:15,16 87:9 91:5 126:14 134:20 147:23	proper 53:2
parsing 87:13	period 47:23 122:23 124:19 129:4,14 138:19 139:13	platform 87:2 90:6	pretty 126:23 135:8	properly 122:18
part 18:16 28:21 30:9 43:23 46:9 65:8,13 73:17,18 83:14,16 104:13 106:4 110:5 112:6 121:7,9 122:10,16,19 145:16 148:8 166:19 167:15 170:22 171:15,18 174:24	periods 85:14	plays 126:11	previously 76:8 117:19	property 41:24 42:5, 17 43:2
parte 162:6,10	person 31:3,8 88:6 144:12 158:17 159:15	pleading 145:18	price 83:7	proposal 146:21 167:25
participants 86:5	personal 18:18 68:12	pleadings 145:22	Pricewaterhouseco opers 123:23	proposals 147:2,20 149:4 169:6
participated 130:4	petition 25:5,12,22 26:6 27:7,13 70:25 72:18	plot 146:22 148:23 166:22	Pricewaterhouseco opers' 123:19	proposed 84:16
parties 8:14 23:25	phone 49:16 63:24	pocket 103:21	principal 21:14,24 22:5 24:6,16 30:7 31:13 118:17 140:22 154:9 156:10	proved 147:24
partly 169:9		point 18:16 37:19 103:25 141:17 148:5 149:13 175:6	prior 24:19 29:9 50:18 63:19,20 70:25 72:18,25 73:2 76:11 90:2 96:20 110:15,19 121:25 144:14 145:7 149:6 150:9,17 151:3 165:13 166:4,14 167:8 168:14,19,25 169:11 170:12	provide 49:19 50:10, 17 53:24 86:17,24 89:8 125:21 129:25
partner 10:11 95:24		portion 120:22 131:7,21 132:10 137:22 138:13	private 63:8	provided 85:23 86:3, 7,14,21 87:11,16 88:8,22 106:21 130:9
partnership 34:17 36:22 125:3		portions 72:14	problem 78:8 132:20 140:10	
pas 38:6		potential 32:13 33:13	procedures 8:19 103:4	
past 38:7		potentially 11:21	proceed 9:18 19:6 68:3,14	
		practice 8:7 134:20 135:3		
		precise 24:21		

Index: providing..responses

133:25	quote 39:17 47:11 97:21 108:3 117:10, 13,14 124:25 166:4,7	recollection 32:11, 18 33:10 48:2,11 49:7 61:12 63:16 92:13,16 99:4 101:21 102:6,16 103:11 112:13 114:17,18 120:13,18 121:6 133:24 137:16 143:9 151:23 152:19 158:4 164:9,18,20	reinvested 49:22	reporter 8:11 9:22, 24 18:10 94:17 149:12 175:21 176:4, 7,12
providing 87:8			REIT 57:25 58:4,12, 15 63:13 64:19	reporting 8:5 126:8
provision 83:23 84:8,15,18	R		relate 72:8,10	reports 126:4,8 127:6 139:18
purpose 46:12	raise 9:24		related 30:24 81:18, 23 86:25	represent 136:24 143:4 173:20
purposes 60:22	range 22:6		relating 32:7 57:21	representation 127:18,21 128:23 129:13
pursuant 85:23 86:14	rattled 138:17	reconciliation 101:8	relationship 58:8,11 74:18	representative 39:8,18 40:7 41:17
put 10:14 14:21 15:23 16:3,14 55:20 59:16 82:3 85:15 93:17 94:23 115:14 116:19 118:10 123:3 130:14 132:12 146:21 163:9	reach 95:24 96:4 148:2 159:16,17,21	record 8:9 9:21 10:10 15:10 16:13 17:19,25 18:5,8,12, 14 66:11,15 89:4 94:6,7,21 95:15,18 97:2 115:4,9,10,12, 24 149:24 150:5 161:15,18 162:24 163:2,3,7 175:20,23	relative 51:25 52:2 158:19	representatives 46:25 147:17
puts 126:21	reach-outs 148:7,19		relevant 32:20 51:12	representing 170:20
putting 92:25 93:4 109:23	reached 159:8,15		reliance 126:21	represents 105:22
PWC 122:10 126:21 127:2 128:11	reaches 148:2	recording 8:15	relied 106:3 111:12	request 10:3,17 13:13 16:14 17:15 55:22 59:18 84:10 85:20 98:10 107:11 108:22 116:21 119:2 123:5,20 124:6,10 130:16 131:4,25 132:4,6 133:9 135:16 137:3 142:13 163:12 165:8,25 168:11 169:18,20 174:4,7,9, 10,14,18 175:3
Q	read 64:10 83:20 132:19 168:17,23 169:4	records 93:14	rely 111:3	requests 138:23 163:15,16 165:18 173:4,5 174:20
question 11:14 20:4 32:5 33:6 35:13 50:8 52:13 53:17 69:18 72:16 77:3 78:9 80:2 81:10 86:12 88:5,18 96:23 100:13 106:17 109:23 135:19 136:13 141:20 145:2 146:8 150:16 169:5	reading 168:18	Redeemer 72:5	remained 18:13 42:6	required 90:5 113:22 114:8
question's 149:5	ready 116:13	refer 19:21 48:9 78:4 143:18	remember 13:9 21:3,4 22:4 23:18 24:2 27:23 28:14,18 49:10 52:6,24 57:10 59:2,7 65:9,18 76:4 81:20,21 84:21,23,25 85:2,3,4,12,13 91:15 103:12 113:10 120:8 146:15 152:11 153:9, 15 154:19 157:25 159:5 165:4 168:3	resolution 112:7
questioner 89:19	real 86:25 89:10,24 90:3,7 112:16 134:6, 10	reference 63:11	remind 171:3	resolve 112:14
questioning 120:23	reason 62:7 75:20 77:16 150:13,21 151:6 168:2 173:17 174:14,15,19 175:2	referenced 47:19	remote 8:15	Resources 54:15, 18,21
questions 10:8 14:6 15:24 16:15 17:3 20:5 28:5 50:22 53:11 68:22 76:8 78:24 88:14 106:14 132:9 138:23,24,25 139:7 140:17 143:21, 23 165:5 175:10,17	recall 20:17 53:5,16 54:4,9 59:9 61:19 75:19 76:13,17 79:12,14 84:13,17 85:9 90:22 91:3,12 93:6,8 99:10 105:6 109:7,10,22,24 110:3 111:19,22,23 112:8, 11,19 113:2,4 114:5, 7,10,11 118:14 130:8 132:24 142:19,23 145:25 146:11 151:10 153:3,4,18 157:9 158:10,11 160:13,15 164:23 167:17,22	referred 14:3 72:12	remotely 8:10,13 9:10	respect 158:6 159:3, 9 174:11
quick 149:14	receive 101:20	referring 66:18 171:4	renew 129:21	responded 172:17
quickly 132:19 165:20 173:18	received 36:13 56:20 58:17 64:18 65:7,13, 22 66:16 102:17	refers 39:24 57:20 118:7	renewal 129:25 130:5 136:7 138:24	response 108:15 136:11,12 137:2,4 172:12
Quinn 10:10	recipient 36:4	reflect 97:2	Reorganization 142:17	responses 163:10, 14 173:4,21
		reflected 32:23 33:3 57:8,14 59:11 64:19 105:15,19 161:22	repeat 32:4 50:21 52:13 100:13	
		reflects 153:18	repeating 78:24	
		refresh 32:18 33:10 143:9 164:18	report 125:2,7,13,17, 19,22 127:15 139:17, 21 140:12	
		refreshed 63:6	reported 111:14 128:19	
		refreshes 164:9,20		
		refuse 84:15		
		regard 71:24 72:2 121:15 147:18		
		regular 168:5 175:25 176:2		

Index: responsibilities..speculation

responsibilities 51:13	rules 8:18,19	sentence 118:4	shift 85:17	social 8:7
responsibility 80:7	running 71:15	separate 20:6 38:4	shortly 96:9	sold 73:19 83:5,11,12 148:4
responsible 55:2 104:17,23 105:4,9,12 106:22 113:5 125:16, 18 126:2,18 127:14 133:4	rush 176:3	series 58:2	show 158:9 169:7	sole 127:4
rest 13:24	<hr/> S <hr/>	serve 133:22	showed 57:4 76:10 120:3 164:15	solely 15:25
restate 69:18	salaries 104:10	service 88:23	showing 70:6	solution 146:22
restitution 112:25	salary 52:8,17 57:8 60:9,19,25 61:10,13, 17,21 62:5	served 135:11	shows 100:7 101:2	sought 161:11
Restoration 72:5	sale 71:17 73:16	services 14:10 62:23 81:19 85:23 86:4,7, 14,17,22,23 87:8,11, 16,22 88:8,15 89:8, 21 133:25 134:13,15 135:12 143:19 151:16 152:8,13,15, 21 153:7,25 154:2,8 157:22	shuffling 173:13	sound 47:23 119:19
restricted 57:20 58:17 59:11 63:12 64:18,25 65:7,13,22 71:20	sampling 126:24 127:9	set 13:15 56:18 81:25 82:17 83:17 143:20 171:5	sic 9:4 94:20 175:19	sounds 45:4
restroom 96:13	satisfied 42:6 70:7 75:23	serving 126:13	sign 124:21 126:16 128:22	source 102:17 127:4, 11,12
result 28:19 44:12 99:17 100:8	Sauter 134:8	sets 82:19 100:16	signature 123:19 164:10,16 173:25	sources 101:2
resume 18:20	schedule 49:16 63:22	settle 93:2	signed 45:13 46:24 48:16,17,21,22 90:15 91:4 123:23 127:17 129:13 164:21 165:2	space 151:20
reswear 9:23	screen 10:15 56:10 82:4 95:9 97:10 114:21,23 119:22 131:15 163:9	settlement 92:21,22 104:13 147:2 148:8 151:19 166:20,22 167:24 169:6,23 170:18	significant 72:4 86:7 151:17	speak 8:23 11:6 12:21 72:25 115:17
retail 105:22 129:18, 20 130:2,5,10 131:2 134:18,22 136:12 137:8,21 138:3,7,12 139:22 140:12 141:5, 11,22 142:6	scroll 124:8 131:8	settles 82:19 100:16	similar 136:5 138:21	speaking 12:3 26:19 78:10
retained 59:6	scrolling 131:23	settlements 147:25 168:5	simple 65:4 81:9 112:16	special 176:3
review 122:6 130:11 134:17 164:25	seat 95:13	seven-year 63:22	simply 88:7	specific 26:16 28:7 48:2 85:5 118:18 122:13 128:18,19 137:3 149:5 152:16 170:7
reviewing 134:22	SEC 92:4 98:2,4 99:11,25 103:12 104:17,21 105:4,8	severity 8:6	sir 28:24 56:10 80:6 95:20 98:13 106:10 116:4,13 117:6 119:8 123:15 127:3 131:24 144:2,24 145:5 155:16 162:10 163:25 164:6 171:25	specifically 21:4 28:15 30:4,11 31:2 34:11 35:24 37:14 41:11 50:15 52:6 55:8 57:10 60:13 80:3 81:22 84:12 96:16 97:2 98:14 103:13 106:21 107:25 110:11 111:22 118:13 119:11 139:9,11 140:3,25 143:14 146:7 149:10 169:24 170:3 171:5,9
revisions 81:24	section 124:13 132:9 134:3 135:15,18 171:24	share 65:21	sis- 84:9	specificity 47:18 49:10 121:15 122:8 148:24
rights 43:19	Seery 144:22 147:3, 17,22,24 149:8 153:22 154:4 160:2 174:21	shared 53:6 133:25 134:13,15 135:12 151:16 152:8,12,15, 21 153:7,25 154:2,8	sister 40:12 50:11,18 51:5 52:7,16,19 53:6, 10,17,25 54:5 57:5 73:11 75:14,21	specifics 21:20 91:15 166:24 167:3, 7,21
Robert 10:8	sell 70:13 71:2,12 72:19	shareholder 112:24	sit 23:19 34:11 35:25 39:13 48:14 52:6 53:9 81:20,21 148:17 158:3 165:3 172:21	speculate 27:24 28:4
role 53:3 87:5 126:11	selling 71:22	shareholder's 71:19	situation 112:7	speculation 118:9
rolled 51:9	send 15:20 16:21 19:7,10 64:3 66:6 68:7,9 118:11	shareholders 39:9 40:8 41:18	sixth 39:12	
rolling 95:20	sending 160:15	shares 58:2 71:22	small 99:8 104:5 158:23	
room 8:8,12 96:6,7 153:16	senior 92:24 134:9	sheet 14:14,18 27:15 72:15 121:5,19,23	snap 17:18	
rough 103:3,10 175:25	sense 118:19 119:11	sheets 122:4		
Rule 8:18				

speed 65:11	stipulate 8:14	15,22 75:11	term 15:15,16 21:19 28:19 34:15 36:23 46:4 156:2 157:11 158:2,7 161:13 166:13	14,24 87:6,10 92:23 93:11,15 96:19 109:8,12 114:9 117:16,17 120:3,6,8, 11 121:18 126:13 129:11 136:18 138:19 141:17 142:6 143:11 149:22 150:5 153:16 160:20 163:7 172:17 175:6
spend 12:3	stock 57:21 58:18 59:11 63:12 64:19 65:7,13,22	substantive 11:20	sued 90:14	times 41:25
spending 38:22	Stonehill's 168:9	suite 126:17	support 83:12 97:21 134:2	tired 144:25
spent 62:2	stop 17:22 38:24 39:2 76:25 78:15,16 115:18 132:2	supplemental 123:8 131:3	supposed 151:18 174:23	title 111:7,8 134:7
split 61:12	Stotz 8:11	surface 136:21	swear 8:12	today 13:25 33:16 34:12 35:25 36:3 38:14 39:14 40:13 52:6 53:9 66:10 67:4 70:3 81:21 132:25 133:2 144:7 165:3 172:21
spoke 71:16	strike 50:5 104:24 106:7,13 146:6	surprised 125:6 158:18	swearing 8:16	today's 175:18
spoken 8:24 10:24	string 97:14 108:12	sustained 99:17	switch 129:16	told 47:7 52:25 110:15 117:8 129:2 139:12 141:11 145:25 146:11 158:22,23 162:14 167:12 171:13 174:21
spread 62:17,20 85:14	struck 50:22	Suzanne 8:11 94:16	sworn 10:5	tomorrow 67:4,13
spreadsheet 97:20	stuck 80:14	T		tonight 67:12 176:14
spreadsheets 154:3	Sub- 72:24			top 22:22 24:4,5 26:8 27:23 29:21 31:14 63:5 90:11 97:18 108:14
staff 105:24 135:10	subadvisory 105:23			topic 150:7
stamped 56:4 59:21 95:4 107:13 116:23 119:4 123:10 130:18	subject 13:20 14:9 20:24 21:7,11,15,25 22:10,14,18 23:7,12, 16,21 24:7,12,17 25:25 26:5 27:5,11, 17 28:7,25 29:5,11, 14,16,18,24 30:2,8, 14,16,21,22 31:2,10 33:19,23,25 34:20,22 35:16,20 36:7 39:5,7 41:23 42:11 44:23 45:19 69:9,11,20 72:24 77:23 79:9,17, 23 81:3,6,8,15 83:24 84:19 137:23 138:9, 14 141:12 146:15 150:12,20 171:19	table 13:15	thing 44:8 88:24 92:19 127:7 132:19	topics 38:16 41:8
stamping 67:3,8	subsequent 13:20 21:5 42:8 43:8 44:5 45:10,19,24 47:6 69:16,23 70:6,11 72:7 73:7,17 75:23 82:20 122:24 124:14, 17 136:19 138:24,25	takes 68:11	things 26:13 28:20, 21 38:23 47:6 83:11 153:22 162:7 166:23 172:18	total 102:5 103:6,16
stand 94:13	subsequently 147:22	taking 18:17,20 94:10 161:18,19	thinking 138:18	totals 101:19
standard 135:3	substance 11:7,15, 18 132:24 165:11	talk 11:17 17:18 91:10 111:17 167:20	thinks 11:18	track 89:4
standards 46:20 51:12 53:4	substantially 74:9,	talked 59:5 60:14 120:14 174:11	thought 31:19 36:20, 23 87:12 159:23 160:5,24 162:2 170:3 172:18	track-record 88:24
standing 155:24 176:8		talking 33:15,17 38:13,24 39:2 64:24, 25 146:6 153:20 156:2 162:9	throw 144:4	trade 58:3
Stang 161:2		tape 96:23	ties 127:10	transaction 90:6 108:3 110:16
start 9:3 92:3 146:6		team 54:25 55:14 56:14 153:8,10,15	time 9:15 12:3 29:20, 21 32:5 35:9 37:13 38:8,23 39:12 40:5, 16,19,25 42:4,13,15, 23 47:4 52:21 61:14 62:2,14,17,20 63:4 64:13 66:8,15 67:6 71:3 73:12,21 74:6, 12,19,25 75:24 76:6 78:7 83:20,21 85:4,	transactions 124:18 134:6,11
start-up 89:3		telling 14:25 78:17 153:4 167:17		transcript 96:15
state's 8:19		template 117:18,24		
stated 10:9 41:25 106:21		ten 24:20,23		
statement 39:17 54:12 56:4,13,18 59:21 60:2 71:8 100:23 125:20		tendered 154:21		
statements 32:24 33:3 55:3,15 120:16 122:7,23 123:8 128:10,15 129:3				
States 9:7				
stay 19:22 95:17				
stenographic 9:20				
steps 110:21				
stick 78:5				

Index: transfer..ZIP

transfer 91:23 92:6, 8,9,11,14 93:7,12 107:22 110:13 111:24 112:4 116:16 117:9 120:10 transferred 91:13 110:24 111:21 119:18 129:5 transfers 110:9 transition 151:19 153:24 travel 49:15 treasurer 90:24 111:8 trick 81:10 146:10 triggered 42:8,9 true-up 151:19 153:22 trust- 20:25 trustee 19:19,22 20:2,11,19 21:2,8,12, 17 22:2,11,19 23:3,8, 13,17,22 24:8,13,18 25:2,14 26:2,7 27:6, 12,18 28:9 29:19,25 30:9,15,23 31:4,9,25 32:7,12 33:12,25 39:8 40:12,15 41:3 42:25 43:6,14,18 44:11,21 45:17 47:19 49:5 50:20 51:7 53:13 73:11 75:24 78:5 79:7,15,21 81:4, 13 84:14,20 137:24 138:10 139:25 144:19 145:9 146:3, 13,19 148:14 149:9 167:11 170:12 trustee's 84:10 trustees 82:24 Trustway 70:22 71:24 74:22 75:8 167:2 TSG 8:5 turn 47:25 97:6 123:14 turned 84:24	type 128:6 133:4 140:16 types 56:19 typically 112:25 <hr/> U <hr/> UBS 170:20 ultimate 28:19 ultimately 41:8 42:2 45:22 146:25 unable 45:24 understand 10:20 34:3 40:6 68:25 98:15 100:6,15 131:18 144:6 171:7 understanding 36:21 40:25 43:22 49:25 51:2,3 58:7,11 61:25 73:9 74:4,8,17, 21 75:10,22 83:15,17 98:16 103:19 124:16 125:22,24 126:22 127:20 128:4,7 160:9,17 161:11 understood 42:16, 24 43:6 74:13 underwear 80:14 unenforceable 150:13,21 151:5 unfettered 71:25 unilaterally 71:18 United 9:7 units 57:21 58:18 59:11 63:12 64:19 65:2,7,13,22 updates 148:22 <hr/> V <hr/> validity 8:15 valuation 105:25 106:2 variety 62:18 80:17 varying 75:4,6	vendors 104:22 127:10 verbal 49:21 51:2 verification 126:24 127:9 verified 60:18 versus 76:7 84:22,24 102:2 118:21 vest 58:22 vested 57:16 58:19, 24 64:23 vesting 63:22 vests 58:25 video 8:10,15 17:25 95:19 97:6 115:24 video-recorded 9:4 view 131:7 132:10 virtually 28:14 volatility 75:12 Volume 9:4 94:19 175:18 voluntary 113:14 vote 112:24 <hr/> W <hr/> wait 40:2 81:5 165:16 wanted 41:12,16 90:12 98:2,4 175:22 176:13 Waterhouse 90:16, 24 93:7 97:17 108:11 111:3 126:11 151:11, 24 152:20 153:2,5,19 160:10,16 161:16,23 162:14 165:13 166:7, 14 170:4 Waterhouse's 97:19 ways 37:12 week 12:16 44:18 120:3 weeks 136:2 well-known 92:18	wider 49:9 wire 110:8 withdrawn 21:22 22:8,15 29:14 34:14 35:16 42:21 47:9 51:15 69:9 82:22 113:18 114:6 121:20 125:10 133:16 154:13 witnesses 15:7 Wonderful 175:11 word 39:23 171:4 work 101:23,24 125:22 working 62:2 73:13 126:2 works 146:20 world 11:4 worth 58:20 92:4 wrap 149:16 wrestle 170:25 writing 86:10 87:22 105:15,18 106:20 153:17 160:10,11,13 161:21 writings 106:9 written 85:22 86:11, 13,20 130:9 146:21 161:15,18 163:10 wrote 28:24 <hr/> Y <hr/> year 22:13,16 24:19 28:15,17 30:12 47:9, 12,14,25 48:9,11 49:8 52:18 55:10,11 56:20 57:16 105:22 106:5 113:3 118:15 142:6 154:13 year's 136:6 years 21:5 30:19 38:11 49:6,24 51:9 58:23,24,25 59:2,3,4 63:6 76:5 126:23	years' 63:20 yelling 115:18,19 yes-or-no 11:14 Yup 56:11 97:13 <hr/> Z <hr/> Ziehl 161:3 ZIP 51:22 53:2
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EXHIBIT 100

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:

CHAPTER 11

HIGHLAND CAPITAL
MANAGEMENT, L.P.,
Debtor.

CASE NO. 19-34054-SGI11

HIGHLAND CAPITAL
MANAGEMENT, L.P.,
Plaintiff,
v.

ADVERSARY PROCEEDING
NO: 21-03000-SGI

HIGHLAND CAPITAL
MANAGEMENT FUND ADVISORS,
L.P.; NEXPOINT ADVISORS,
L.P.; HIGHLAND INCOME
FUND; NEXPOINT STRATEGIC
OPPORTUNITIES FUND;
NEXPOINT CAPITAL, INC.;
AND CLO HOLDCO, LTD.,
Defendants.

REMOTE VIDEOTAPED DEPOSITION

OF

NANCY DONDERO

Monday, October 18, 2021

Reported by:
ANNETTE ARLEQUIN, CCR, RPR, CRR, CLR
JOB NO. 201194

<p>Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 October 18, 2021</p> <p>6 10:30 a.m. (Central)</p> <p>7</p> <p>8 Remote videotaped deposition of</p> <p>9 NANCY DONDERO, pursuant to Notice Rule</p> <p>10 30(b)(6) and individually, before</p> <p>11 Annette Arlequin, a Certified Court</p> <p>12 Reporter, a Registered Professional</p> <p>13 Reporter, a Certified Realtime</p> <p>14 Reporter, and a Realtime Systems</p> <p>15 Administrator and a Notary Public of</p> <p>16 the State of New York, New Jersey and</p> <p>17 Florida.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 PACHULSKI STANG ZIEHL & JONES</p> <p>5 Attorneys for Debtor</p> <p>6 150 California Street</p> <p>7 San Francisco, California 94111</p> <p>8 BY: JOHN MORRIS, ESQ.</p> <p>9 - and -</p> <p>10 PACHULSKI STANG ZIEHL & JONES</p> <p>11 780 Third Avenue</p> <p>12 New York, New York 10017</p> <p>13 BY: HAYLEY WINOGRAD, ESQ.</p> <p>14 GREGORY DEMO, ESQ.</p> <p>15</p> <p>16</p> <p>17 STINSON</p> <p>18 Attorneys for Jim Dondero, HCMS, HCRE and NexPoint</p> <p>19 3102 Oak Lawn Avenue</p> <p>20 Dallas, Texas 75219</p> <p>21 BY: DEBORAH DEITSCH-PEREZ, ESQ.</p> <p>22 MICHAEL AIGEN, ESQ.</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S(Cont'd.):</p> <p>3</p> <p>4 LATHAM & WATKINS</p> <p>5 Attorneys for UBS Securities LLC and UBS AG London</p> <p>6 1271 Avenue of the Americas</p> <p>7 New York, New York 10020</p> <p>8 BY: SHANNON McLAUGHLIN, ESQ.</p> <p>9</p> <p>10 HELLER DRAPER & HORN</p> <p>11 Attorneys for Dugaboy</p> <p>12 650 Poydras Street</p> <p>13 New Orleans, Louisiana 70130</p> <p>14 BY: DOUGLAS DRAPER, ESQ.</p> <p>15</p> <p>16</p> <p>17 GREENBERG TRAURIG</p> <p>18 Attorneys for Nancy Dondero</p> <p>19 2200 Ross Avenue</p> <p>20 Dallas, Texas 75201</p> <p>21 BY: DANIEL ELMS, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1</p> <p>2 A P P E A R A N C E S(Cont'd.):</p> <p>3</p> <p>4</p> <p>5 MUNSCH HARDT KOPF & HARR</p> <p>6 Attorneys for Highland Capital Management</p> <p>7 Fund Advisors, L.P. and NexPoint Advisors L.P.</p> <p>8 500 N. Akard Street</p> <p>9 Dallas, Texas 75201</p> <p>10 BY: DAVOR RUKAVINA, ESQ.</p> <p>11 THOMAS BERGHMAN, ESQ.</p> <p>12</p> <p>13</p> <p>14 ALSO PRESENT:</p> <p>15</p> <p>16 AARON LAWRENCE, Clerk, Quinn Emanuel</p> <p>17 LA ASIA CANTY, Paralegal from Pachulski</p> <p>18 PAIGE MONTGOMERY, Litigation Trust Attorney</p> <p>19 PATRICK DAUGHERTY (as noted)</p> <p>20 DEBORAH NEWMAN</p> <p>21 MANUEL GARCIA, Legal Videographer</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p>Page 6</p> <p>1 2 IT IS HEREBY STIPULATED AND 3 AGREED by and between the attorneys for 4 the respective parties herein, that 5 filing and sealing be and the same are 6 hereby waived; 7 IT IS FURTHER STIPULATED AND 8 AGREED that all objections, except as 9 to the form of the question, shall be 10 reserved to the time of the trial; 11 IT IS FURTHER STIPULATED AND 12 AGREED that the within deposition may 13 be sworn to and signed before any 14 officer authorized to administer an 15 oath, with the same force and effect as 16 if signed and sworn to before the 17 Court. 18 19 - o0o - 20 21 22 23 24 25</p>	<p>Page 7</p> <p>1 N. Dondero 2 THE VIDEOGRAPHER: Good morning. 3 My name is Manuel Garcia. I'm a 4 certified legal videographer in 5 association with TSG Reporting, Inc. 6 Due to the severity of COVID-19, 7 and following the practice of social 8 distancing, I will not be in the same 9 room with the witness, but will record 10 the deposition remotely. 11 The reporter, Annette Arlequin, 12 also will not be in the same room and 13 will swear the witness remotely. 14 Do all parties stipulate to the 15 validity of this video recording and 16 remote swearing, and that it will be 17 admissible in the courtroom as if it 18 had been taken following Rule 30 of the 19 Federal Rules of Civil Procedures and 20 the State's rules where this case is 21 pending? 22 MR. MORRIS: Yes. 23 I would ask if anybody objects, 24 to speak up. If you don't object, then 25 we're going to go on negative notice</p>
<p>Page 8</p> <p>1 N. Dondero 2 here. 3 (No response.) 4 MR. MORRIS: Thank you very much. 5 And just to be clear, as I 6 communicated with Debra last evening, 7 the court reporter is not currently in 8 the State of Texas. 9 And I understand that counsel for 10 all defendants in the notes litigation 11 have waived any objection to the fact 12 that the oath is being administered 13 outside of the state. 14 If anybody disagrees or objects 15 to that, please speak up now. 16 Thank you very much. 17 Okay. You can swear the witness. 18 * * * 19 NANCY DONDERO, called as a 20 witness, having been duly sworn by a 21 Notary Public, was examined and 22 testified as follows: 23 THE WITNESS: Yes. 24 EXAMINATION BY 25 MR. MORRIS:</p>	<p>Page 9</p> <p>1 N. Dondero 2 Q. Okay. Can you please state your 3 name for the record? 4 A. Nancy Dondero. 5 Q. And where are you located right 6 now, Ms. Dondero? 7 A. In the law office of Deborah 8 Deitsch-Perez. 9 Q. Are you in Dallas? 10 A. I am. 11 Q. Is there anybody in the room with 12 you right now? 13 A. Yes. 14 Q. Who is in the room with you? 15 A. Deborah Deitsch-Perez and Dan 16 Elms. 17 Q. Is there anybody else in the room 18 with you right now? 19 A. Electronically is Douglas Draper. 20 Q. Okay. Thank you very much. 21 Do you have a telephone with you 22 right now? 23 A. My cellphone? 24 Q. Yes. 25 A. Yes. It's in my purse.</p>

<p style="text-align: right;">Page 10</p> <p>1 N. Dondero</p> <p>2 Q. Is it turned off?</p> <p>3 A. It is – well, yes, um-hmm. It's</p> <p>4 on silent.</p> <p>5 Q. Okay. Thank you very much.</p> <p>6 My name is John Morris. I'm an</p> <p>7 attorney at Patchulski Stang Ziehl & Jones.</p> <p>8 We represent the reorganized Highland</p> <p>9 Capital Management LP, and we're here for</p> <p>10 your deposition today.</p> <p>11 Do you understand that?</p> <p>12 A. I do.</p> <p>13 Q. Okay. Do you understand that</p> <p>14 this deposition is being videotaped?</p> <p>15 A. Yes.</p> <p>16 Q. And do you understand that I may</p> <p>17 seek to use that videotape in a court of</p> <p>18 law?</p> <p>19 A. Yes.</p> <p>20 Q. Do you understand that you're not</p> <p>21 allowed to communicate with anybody</p> <p>22 concerning the substance of your testimony</p> <p>23 until the deposition is completed?</p> <p>24 A. Yes.</p> <p>25 Q. Is there anything that would</p>	<p style="text-align: right;">Page 11</p> <p>1 N. Dondero</p> <p>2 prevent you from answering my questions</p> <p>3 today?</p> <p>4 A. No.</p> <p>5 Q. Do you have any problems with</p> <p>6 your memory?</p> <p>7 A. No.</p> <p>8 Q. Are you on any drugs or</p> <p>9 medications that might impair your ability</p> <p>10 to answer questions today?</p> <p>11 A. No.</p> <p>12 Q. Have you ever been deposed</p> <p>13 before?</p> <p>14 A. Once, a number of years ago.</p> <p>15 Q. Do you recall the subject matter</p> <p>16 of the testimony or the circumstances in</p> <p>17 which you gave a deposition?</p> <p>18 A. Personal injury.</p> <p>19 Q. And were you a witness or were</p> <p>20 you the plaintiff in that matter?</p> <p>21 A. Plaintiff.</p> <p>22 Q. Okay. So let me just give you</p> <p>23 the general ground rules so that there's –</p> <p>24 so that this can be efficient.</p> <p>25 This is a very difficult process</p>
<p style="text-align: right;">Page 12</p> <p>1 N. Dondero</p> <p>2 in normal times. It's particularly</p> <p>3 difficult because we're doing this</p> <p>4 remotely.</p> <p>5 So it is very important that you</p> <p>6 allow me to finish my question before you</p> <p>7 begin your answer.</p> <p>8 Is that fair?</p> <p>9 A. Yes.</p> <p>10 Q. And it's very important that I</p> <p>11 allow you to finish your answers before I</p> <p>12 begin the next question.</p> <p>13 And if I fail to do that, will</p> <p>14 you let me know?</p> <p>15 A. I will.</p> <p>16 Q. Okay. If there is anything that</p> <p>17 I ask you that you don't understand, will</p> <p>18 you let me know that?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. From time to time, we're</p> <p>21 going to put some documents on the screen.</p> <p>22 It's not a – you know, it's not intended</p> <p>23 to be a test.</p> <p>24 If you see a document on the</p> <p>25 screen and you think that you need to see a</p>	<p style="text-align: right;">Page 13</p> <p>1 N. Dondero</p> <p>2 different portion of the document to put</p> <p>3 what I'm asking you about in context, will</p> <p>4 you let me know that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. I sent down to your lawyer</p> <p>7 last week 29 hard copies of certain</p> <p>8 documents.</p> <p>9 Do you have those handy?</p> <p>10 A. The big binder?</p> <p>11 Q. Yes.</p> <p>12 A. Yes.</p> <p>13 Q. Okay. All right. We may refer</p> <p>14 to those –</p> <p>15 MR. RUKAVINA: John, hold up for</p> <p>16 a second. This is the Davor Rukavina.</p> <p>17 I'm one of the attorneys defending two</p> <p>18 of the defendants. I just – we</p> <p>19 haven't taken appearances, John. I</p> <p>20 just want to make sure that the record</p> <p>21 is clear that Deborah will be</p> <p>22 objecting, Ms. Deitsch-Perez will be</p> <p>23 objecting for me so that I don't have</p> <p>24 you to object. In other words, when</p> <p>25 she objects, consider it an objection</p>

<p>Page 14</p> <p>1 N. Dondero</p> <p>2 on behalf of my clients NexPoint and</p> <p>3 HCM Financial Advisors.</p> <p>4 Is that acceptable, John?</p> <p>5 MR. MORRIS: Yes.</p> <p>6 MR. RUKAVINA: Thank you. Then</p> <p>7 there is no need for me to speak.</p> <p>8 MR. MORRIS: Okay. We'll miss</p> <p>9 you.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. If you need a break at any time,</p> <p>12 will you let me know that?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. It's very important that</p> <p>15 all of your responses to my questions be</p> <p>16 verbal so that the court reporter can take</p> <p>17 it down, okay?</p> <p>18 A. Okay.</p> <p>19 Q. And you do understand that the</p> <p>20 court reporter is going to record and</p> <p>21 transcribe every word that you and I say</p> <p>22 today, okay?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. From time to time, a</p> <p>25 lawyer might object to one of my questions.</p>	<p>Page 15</p> <p>1 N. Dondero</p> <p>2 That gives me the opportunity to think</p> <p>3 about whether or not the answer to the</p> <p>4 question would be admissible if I didn't</p> <p>5 correct it.</p> <p>6 I may ask you to just answer the</p> <p>7 question because I don't think the</p> <p>8 objection is going to be sustained. Just</p> <p>9 let the lawyers do their thing. And unless</p> <p>10 your lawyer directs you not to answer a</p> <p>11 question, I would ask that you answer every</p> <p>12 question that I ask, okay?</p> <p>13 A. Yes.</p> <p>14 Q. Thank you.</p> <p>15 That's where you need to give the</p> <p>16 verbal answer.</p> <p>17 Just to go through a couple of</p> <p>18 definitions so that I don't have to say</p> <p>19 full names on certain things throughout the</p> <p>20 day.</p> <p>21 If I use the word "Dugaboy," will</p> <p>22 you understand that I'm referring to The</p> <p>23 Dugaboy Investment Trust?</p> <p>24 A. Yes.</p> <p>25 Q. If I use the word "Highland,"</p>
<p>Page 16</p> <p>1 N. Dondero</p> <p>2 will you understand that I'm referring only</p> <p>3 to the entity that was known as Highland</p> <p>4 Capital Management LP, both before the</p> <p>5 bankruptcy filing and after the bankruptcy</p> <p>6 filing?</p> <p>7 A. Okay.</p> <p>8 Q. If I use the phrase "LP</p> <p>9 agreement" – withdrawn.</p> <p>10 Are you familiar with the fourth</p> <p>11 amended and restated limited partnership</p> <p>12 agreement of Highland Capital Management</p> <p>13 LP?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And if I refer to that</p> <p>16 document as the "LP agreement," will you</p> <p>17 understand what I'm referring to?</p> <p>18 A. Yes.</p> <p>19 Q. Do you understand that you're</p> <p>20 here today both in your individual capacity</p> <p>21 and in your capacity as the trustee or the</p> <p>22 30 – what's called the 30(b)(6)</p> <p>23 representative for Dugaboy?</p> <p>24 A. Yes.</p> <p>25 Q. And have you done anything to</p>	<p>Page 17</p> <p>1 N. Dondero</p> <p>2 prepare for today's deposition?</p> <p>3 A. Yes.</p> <p>4 Q. Can you tell me what you did to</p> <p>5 prepare for today's deposition?</p> <p>6 A. I met with my attorney. And I</p> <p>7 reviewed your big binder.</p> <p>8 Q. When did you meet with your</p> <p>9 attorneys?</p> <p>10 A. Yesterday.</p> <p>11 Q. Is that the only time that you</p> <p>12 conferred with your attorneys in</p> <p>13 preparation for today's deposition?</p> <p>14 A. In person, yes.</p> <p>15 Q. Okay. And how long did you meet</p> <p>16 in person yesterday?</p> <p>17 A. Four hours, four and a half</p> <p>18 hours.</p> <p>19 Q. And where did you meet?</p> <p>20 A. At Deborah's office.</p> <p>21 Q. And was anybody present there</p> <p>22 other than your attorneys?</p> <p>23 A. No.</p> <p>24 Q. Was anybody on speakerphone or</p> <p>25 otherwise communicating during the meeting</p>

<p>Page 18</p> <p>1 N. Dondero</p> <p>2 that was not one of your attorneys?</p> <p>3 A. No.</p> <p>4 Q. I think you mentioned, or you may</p> <p>5 have implied, that you communicated with</p> <p>6 your attorneys in preparation for today's</p> <p>7 deposition but it wasn't in person.</p> <p>8 Do I have that right?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. Did you speak with them on</p> <p>11 the phone?</p> <p>12 A. Zoom meeting.</p> <p>13 Q. And how many Zoom meetings did</p> <p>14 you have in preparation for today's</p> <p>15 deposition?</p> <p>16 A. Three.</p> <p>17 Q. Okay. And can you tell me when</p> <p>18 those three Zoom meetings occurred?</p> <p>19 A. Wednesday, Thursday, and Friday.</p> <p>20 Q. And can you tell me how long each</p> <p>21 of those meetings took place, each of those</p> <p>22 Zoom meetings took place?</p> <p>23 A. Approximately an hour.</p> <p>24 Q. Did anybody other than your</p> <p>25 attorneys participate in any of those three</p>	<p>Page 19</p> <p>1 N. Dondero</p> <p>2 Zoom meetings?</p> <p>3 A. No.</p> <p>4 Q. Did you review any documents in</p> <p>5 preparation for today's deposition other</p> <p>6 than the documents that I provided?</p> <p>7 A. No.</p> <p>8 MS. DEITSCH-PEREZ: To be fair, I</p> <p>9 think we did give her the Dugaboy</p> <p>10 notice. I don't remember if it's in</p> <p>11 your binder.</p> <p>12 MR. MORRIS: Deborah, are you</p> <p>13 referring to the 30(b)(6) notice?</p> <p>14 MS. DEITSCH-PEREZ: Yes.</p> <p>15 MR. MORRIS: I appreciate that.</p> <p>16 It was not in the binder.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Other than the 30(b)(6) notice</p> <p>19 that was in the binder and the 29 documents</p> <p>20 that I provided to you, did you review</p> <p>21 anything else, Ms. Dondero, in preparation</p> <p>22 for today's deposition?</p> <p>23 A. Not that I'm aware of.</p> <p>24 Q. Was your brother present or did</p> <p>25 your brother participate in any of the four</p>
<p>Page 20</p> <p>1 N. Dondero</p> <p>2 preparation meetings that you described?</p> <p>3 A. No.</p> <p>4 Q. Since the beginning of the year,</p> <p>5 since January 1st, 2021, have you</p> <p>6 communicated with your brother at any time</p> <p>7 about the promissory notes that are the</p> <p>8 subject of this litigation?</p> <p>9 A. Not that I recall.</p> <p>10 Q. You don't recall ever speaking to</p> <p>11 your brother in 2021 about the promissory</p> <p>12 notes that are the subject of the</p> <p>13 litigation.</p> <p>14 Do I have that right?</p> <p>15 A. That's correct. I do not recall.</p> <p>16 Q. Do you recall if you had any</p> <p>17 conversations with your brother at any time</p> <p>18 in 2021 about any of the defenses that he</p> <p>19 is asserting in the litigation?</p> <p>20 A. What do you – can you be more</p> <p>21 specific?</p> <p>22 Q. Are you aware that your brother</p> <p>23 is a defendant in the lawsuits in which –</p> <p>24 withdrawn.</p> <p>25 Are you aware that you are a</p>	<p>Page 21</p> <p>1 N. Dondero</p> <p>2 defendant in certain lawsuits?</p> <p>3 A. Yes.</p> <p>4 Q. Are you aware that your brother</p> <p>5 is also a defendant in certain lawsuits?</p> <p>6 A. Yes.</p> <p>7 Q. Are you aware that your brother</p> <p>8 has asserted certain defenses to the claims</p> <p>9 that are being asserted against him in</p> <p>10 those lawsuits?</p> <p>11 A. Yes.</p> <p>12 Q. Did you ever discuss with your</p> <p>13 brother at any time in 2021 any aspect of</p> <p>14 the defenses that he is asserting in the</p> <p>15 lawsuits?</p> <p>16 A. No.</p> <p>17 Q. Did you discuss with your brother</p> <p>18 at any time in 2021 who would represent you</p> <p>19 in connection with the lawsuits?</p> <p>20 A. No, I don't believe so.</p> <p>21 Q. Did you communicate with your –</p> <p>22 and when I use the word "communication," I</p> <p>23 want to be clear, I mean any form of</p> <p>24 communication; either a meeting in public,</p> <p>25 on the telephone, by email or text.</p>

<p>Page 22</p> <p>1 N. Dondero</p> <p>2 Do you understand that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Did you -- and did you</p> <p>5 understand that when I asked the last few</p> <p>6 questions about your communications with</p> <p>7 your brother?</p> <p>8 A. Yes, sir.</p> <p>9 Q. Okay. In 2021, had you</p> <p>10 communicated with your brother at any time</p> <p>11 about who would represent Dugaboy?</p> <p>12 A. Not that I remember.</p> <p>13 Q. You're the trustee of Dugaboy.</p> <p>14 Do I have that right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And Mr. Draper represents</p> <p>17 Dugaboy in Highland's bankruptcy case; is</p> <p>18 that right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Your brother and people working</p> <p>21 for him identified and selected Mr. Draper</p> <p>22 to serve as Dugaboy's counsel, correct?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. I'm sorry. Can you ask that</p>	<p>Page 23</p> <p>1 N. Dondero</p> <p>2 again?</p> <p>3 Q. Sure.</p> <p>4 Your brother -- you didn't select</p> <p>5 Mr. Draper to represent Dugaboy; is that</p> <p>6 right?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. I believe he was referred.</p> <p>10 Q. And who was he referred to?</p> <p>11 A. Me.</p> <p>12 Q. Who referred Mr. Draper to you?</p> <p>13 A. I do not remember.</p> <p>14 Q. It's your testimony that</p> <p>15 Mr. Draper was referred to you, and you</p> <p>16 decided to retain Mr. Draper?</p> <p>17 A. I don't -- I don't know.</p> <p>18 Q. Do you know who decided to retain</p> <p>19 Mr. Draper?</p> <p>20 A. I do not.</p> <p>21 Q. Do you know who identified</p> <p>22 Mr. Draper as a possible attorney for</p> <p>23 Dugaboy?</p> <p>24 A. I do not know.</p> <p>25 Q. Do you know when Mr. Draper was</p>
<p>Page 24</p> <p>1 N. Dondero</p> <p>2 retained?</p> <p>3 A. No.</p> <p>4 Q. Do you recall when you first</p> <p>5 spoke to Mr. Draper -- withdrawn.</p> <p>6 Do you recall when you first</p> <p>7 communicated with Mr. Draper?</p> <p>8 A. A couple of months ago.</p> <p>9 Q. Would it have been before or</p> <p>10 after July 1st, 2021?</p> <p>11 A. I don't know.</p> <p>12 Q. It might have been before; it</p> <p>13 might have been after.</p> <p>14 Do I have that right?</p> <p>15 A. Correct.</p> <p>16 Q. Can you identify any matter that</p> <p>17 Mr. Draper has handled in the Highland</p> <p>18 bankruptcy other than his representation of</p> <p>19 Dugaboy in these notes litigations?</p> <p>20 A. I would have to look. I don't</p> <p>21 know offhand.</p> <p>22 MS. DEITSCH-PEREZ: Yeah, John, I</p> <p>23 don't -- this isn't a topic on the</p> <p>24 Dugaboy 30(b)(6). If you need her to</p> <p>25 go back and check the engagement -- I</p>	<p>Page 25</p> <p>1 N. Dondero</p> <p>2 mean, it's not something that I believe</p> <p>3 she's been prepared on. And so I don't</p> <p>4 think it's fair to have a memory test</p> <p>5 on the dates of these things.</p> <p>6 MR. MORRIS: Okay. I appreciate</p> <p>7 that, Deborah. I'm asking -- so let's</p> <p>8 clarify and say this was not a 30(b)(6)</p> <p>9 topic. It's not something that she</p> <p>10 should have prepared for. But I -- she</p> <p>11 is here in her individual capacity, and</p> <p>12 I'll stipulate that these particular</p> <p>13 questions are in her individual</p> <p>14 capacity.</p> <p>15 MS. DEITSCH-PEREZ: Well, but in</p> <p>16 her individual capacity, it's not the</p> <p>17 subject of the notes litigation. And</p> <p>18 then I would object that it's really</p> <p>19 beyond the scope.</p> <p>20 MR. MORRIS: Okay. There is no</p> <p>21 scope because she's here in her</p> <p>22 individual capacity. But the objection</p> <p>23 is noted. Thank you very much.</p> <p>24 MS. DEITSCH-PEREZ: Thank you.</p> <p>25 BY MR. MORRIS:</p>

<p style="text-align: right;">Page 26</p> <p>1 N. Dondero</p> <p>2 Q. Did you ever consider hiring an</p> <p>3 attorney for Dugaboy other than Mr. Draper?</p> <p>4 A. No.</p> <p>5 Q. Did you ever spend any time</p> <p>6 trying to identify an attorney who would</p> <p>7 represent Dugaboy?</p> <p>8 A. No.</p> <p>9 Q. The Stinson firm represents you</p> <p>10 personally in this litigation; is that</p> <p>11 right?</p> <p>12 A. That's incorrect.</p> <p>13 Q. Who – do you know the name of</p> <p>14 Ms. Deitsch-Perez's law firm?</p> <p>15 A. Her law firm is Stinson.</p> <p>16 Q. And does that law firm represent</p> <p>17 you in your individual capacity?</p> <p>18 A. Okay.</p> <p>19 Q. That's okay.</p> <p>20 A. She represents – okay. Dan is</p> <p>21 here representing me personally.</p> <p>22 Q. Okay. And Dan is with the</p> <p>23 Stinson firm, correct?</p> <p>24 A. That's incorrect.</p> <p>25 Q. What firm –</p>	<p style="text-align: right;">Page 27</p> <p>1 N. Dondero</p> <p>2 A. Dan is with Greenberg Traurig.</p> <p>3 Q. Ah. And I appreciate that.</p> <p>4 A. Sure.</p> <p>5 Q. Is that Dan Elms?</p> <p>6 A. Correct.</p> <p>7 Q. When did you retain Mr. Elms?</p> <p>8 A. Mid to late summer.</p> <p>9 Q. How did you identify Mr. Elms as</p> <p>10 your counsel?</p> <p>11 A. He was referred by Deborah.</p> <p>12 Q. And Deborah is Deborah</p> <p>13 Deitsch-Perez, counsel for certain other</p> <p>14 defendants in this lawsuit; is that right?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Did you consider hiring</p> <p>17 anybody to represent you in this litigation</p> <p>18 other than Mr. Elms?</p> <p>19 A. No. I trusted Deborah's</p> <p>20 referral.</p> <p>21 Q. Had you worked with Deborah</p> <p>22 before she referred Mr. Elms to you?</p> <p>23 A. On this matter? Yes.</p> <p>24 Q. On any other matters?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 28</p> <p>1 N. Dondero</p> <p>2 Q. When did you first communicate</p> <p>3 with Ms. Deitsch-Perez?</p> <p>4 A. Prior to this deposition being</p> <p>5 scheduled in June.</p> <p>6 Q. Was she your counsel at the time?</p> <p>7 A. Yes.</p> <p>8 Q. When did you retain her?</p> <p>9 A. To the best of my recollection,</p> <p>10 it had to be late April or May of this</p> <p>11 year.</p> <p>12 Q. So Ms. Deitsch-Perez was</p> <p>13 representing you and your brother at the</p> <p>14 same time? Do I have that right?</p> <p>15 A. Yes.</p> <p>16 Q. Do you have any agreements of any</p> <p>17 kind with your brother concerning these</p> <p>18 lawsuits?</p> <p>19 Withdrawn. That wasn't a good</p> <p>20 question.</p> <p>21 Do you have any agreements or</p> <p>22 understandings with your brother concerning</p> <p>23 the defense of these lawsuits?</p> <p>24 A. I'm sorry. I don't understand</p> <p>25 the question.</p>	<p style="text-align: right;">Page 29</p> <p>1 N. Dondero</p> <p>2 Q. Have you heard the word</p> <p>3 "indemnification" before or "indemnity"?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Do you have an</p> <p>6 understanding of what that means?</p> <p>7 A. Generally.</p> <p>8 Q. What's your general understanding</p> <p>9 of the term "indemnity"?</p> <p>10 A. That one forgives another</p> <p>11 person's error.</p> <p>12 Q. Okay. I'm going to try and give</p> <p>13 you a little bit of a different definition</p> <p>14 and see if you understand it.</p> <p>15 Did your brother ever offer to</p> <p>16 satisfy and pay any judgment that might be</p> <p>17 entered against you in connection with</p> <p>18 these litigations?</p> <p>19 A. No.</p> <p>20 Q. Do you have any agreement of any</p> <p>21 kind or any understanding that he would be</p> <p>22 responsible for the outcome of these</p> <p>23 lawsuits?</p> <p>24 A. Only what is written in the trust</p> <p>25 agreement.</p>

<p>Page 30</p> <p>1 N. Dondero</p> <p>2 Q. Do you know whether the trust</p> <p>3 agreement protects you in your individual</p> <p>4 capacity as opposed to your capacity as the</p> <p>5 trustee of the Dugaboy trust?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. I'm sorry. Can you reask that</p> <p>9 question, Mr. Morris?</p> <p>10 Q. Sure.</p> <p>11 Do you know whether the trust</p> <p>12 agreement indemnifies you in your</p> <p>13 individual capacity, or is it only in your</p> <p>14 capacity as the trustee of the Dugaboy</p> <p>15 trust?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. That's a legal question I don't</p> <p>19 feel comfortable answering.</p> <p>20 Q. All right. I appreciate that it</p> <p>21 may have legal implications, but I just</p> <p>22 want to know what is in your head as a</p> <p>23 factual matter.</p> <p>24 Is it your personal</p> <p>25 understanding, whether it's right or wrong,</p>	<p>Page 31</p> <p>1 N. Dondero</p> <p>2 that you are indemnified in your personal</p> <p>3 capacity under the trust, under the Dugaboy</p> <p>4 trust?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. I would have to think about that.</p> <p>8 Q. Okay. Did your brother ever</p> <p>9 offer to pay any costs and expenses that</p> <p>10 you incur in your personal capacity in</p> <p>11 connection with this lawsuit?</p> <p>12 A. I don't understand.</p> <p>13 Q. Okay. So you're a defendant in</p> <p>14 your individual capacity in four different</p> <p>15 lawsuits.</p> <p>16 Do you understand that?</p> <p>17 A. Yes.</p> <p>18 Q. And Dugaboy is also a defendant</p> <p>19 in the same lawsuits, right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. So I'm asking you whether</p> <p>22 your brother ever offered to pay any costs</p> <p>23 or expenses that you incur in your</p> <p>24 individual capacity in connection with</p> <p>25 these lawsuits?</p>
<p>Page 32</p> <p>1 N. Dondero</p> <p>2 A. No.</p> <p>3 Q. Okay. Greenberg Taurig only</p> <p>4 represents you in your individual capacity.</p> <p>5 Do I have that right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do you have any agreement</p> <p>8 with anybody as to who would pay the</p> <p>9 invoices rendered by Greenberg Taurig?</p> <p>10 A. Yes.</p> <p>11 Q. And what agreement is that?</p> <p>12 A. That Dugaboy will pay Greenberg</p> <p>13 Taurig's expenses, bills.</p> <p>14 Q. Okay. So pursuant to that</p> <p>15 agreement, you won't have to pay any legal</p> <p>16 expenses associated with the defense of</p> <p>17 these lawsuits in your individual capacity.</p> <p>18 Do I have that right?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. Let's just get some</p> <p>21 background here.</p> <p>22 Are you currently employed,</p> <p>23 ma'am?</p> <p>24 A. I am.</p> <p>25 Q. By whom?</p>	<p>Page 33</p> <p>1 N. Dondero</p> <p>2 A. Crescent Research Services.</p> <p>3 Q. Do you have a direct or indirect</p> <p>4 ownership in that entity?</p> <p>5 A. I do.</p> <p>6 Q. And what is the nature of your</p> <p>7 interest?</p> <p>8 A. I own the company.</p> <p>9 Q. 100 percent; is that fair?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And what is the nature of</p> <p>12 the business of Crescent Research?</p> <p>13 A. It's an investigative firm.</p> <p>14 Q. And do you oversee the day-to-day</p> <p>15 operations of Crescent Research?</p> <p>16 A. I do.</p> <p>17 Q. And how many employees does</p> <p>18 Crescent Research have?</p> <p>19 A. I have an outside contractor at</p> <p>20 certain times when the workload demands it.</p> <p>21 Otherwise, it is just me.</p> <p>22 Q. Okay. And how long have you</p> <p>23 owned and operated Crescent Research?</p> <p>24 A. Since 1997.</p> <p>25 Q. Have you owned and operated</p>

<p>Page 34</p> <p>1 N. Dondero</p> <p>2 Crescent Research on a continuous basis</p> <p>3 since 1997 until today?</p> <p>4 A. Correct.</p> <p>5 Q. Have you had any other employment</p> <p>6 since 1997 other than the work that you do</p> <p>7 for Crescent Research?</p> <p>8 A. No.</p> <p>9 Q. Did you obtain a college degree?</p> <p>10 A. I did.</p> <p>11 Q. Where did you attend college?</p> <p>12 A. Penn State.</p> <p>13 Q. And you graduated from Penn</p> <p>14 State?</p> <p>15 A. Correct.</p> <p>16 Q. And when was that?</p> <p>17 A. 1987.</p> <p>18 Q. What was your degree in?</p> <p>19 A. Hotel restaurant management.</p> <p>20 Q. Was it a BA or BS?</p> <p>21 A. I believe it's a BS.</p> <p>22 Q. Okay. Do you have any</p> <p>23 postgraduate degrees?</p> <p>24 A. No.</p> <p>25 Q. Do you hold any licenses of any</p>	<p>Page 35</p> <p>1 N. Dondero</p> <p>2 kind other than your driver's license?</p> <p>3 A. I do.</p> <p>4 Q. Can you describe for me every</p> <p>5 license that you hold other than your</p> <p>6 driver's license?</p> <p>7 A. I'm a real estate agent. I am</p> <p>8 notary. I have several professional</p> <p>9 licenses. Asset recovery specialist.</p> <p>10 Those are off the top of my head that I</p> <p>11 remember.</p> <p>12 Q. What is an asset recovery</p> <p>13 specialist license?</p> <p>14 A. It's licensed through – I don't</p> <p>15 remember the organization. You have to –</p> <p>16 I'm not sure how to answer that,</p> <p>17 Mr. Morris.</p> <p>18 Q. Can you tell me what asset</p> <p>19 recovery is generally in the context of</p> <p>20 your license?</p> <p>21 A. Certainly.</p> <p>22 It's finding assets for companies</p> <p>23 that have gone bankrupt.</p> <p>24 Q. So do you typically get hired by</p> <p>25 an estate fiduciary, a bankruptcy estate</p>
<p>Page 36</p> <p>1 N. Dondero</p> <p>2 fiduciary?</p> <p>3 A. I haven't done asset recovery in</p> <p>4 a number of years.</p> <p>5 Q. Okay. As opposed to licenses, do</p> <p>6 you have any certifications of any kind?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Can you tell me generally what</p> <p>9 you did professionally between the time you</p> <p>10 graduated from Penn State in 1987 and the</p> <p>11 time you formed and began working for</p> <p>12 Crescent Research?</p> <p>13 A. Immediately out of college, I</p> <p>14 worked for a company called Royal Schutt.</p> <p>15 Is an investigative firm. I built up their</p> <p>16 background division. The company closed.</p> <p>17 I took the background division and opened</p> <p>18 up a company called Info-Back Services. I</p> <p>19 ran that for a number of years in New</p> <p>20 Jersey.</p> <p>21 When I moved to Florida, I</p> <p>22 transferred that company and it became</p> <p>23 Crescent Research Services.</p> <p>24 We predominately do preemployment</p> <p>25 background screening, tenant research, and</p>	<p>Page 37</p> <p>1 N. Dondero</p> <p>2 I do a lot of trial prep for various</p> <p>3 attorneys.</p> <p>4 Q. All right. I think you mentioned</p> <p>5 three things. The first was preemployment</p> <p>6 background.</p> <p>7 Do I have that right?</p> <p>8 A. Yes.</p> <p>9 Q. And can you just describe</p> <p>10 generally what preemployment background</p> <p>11 pertains to?</p> <p>12 A. When people are applying for a</p> <p>13 job, I do the screening on their</p> <p>14 application prior to them being hired.</p> <p>15 Q. Okay. And what was the second</p> <p>16 piece?</p> <p>17 A. I do tenant screening as well,</p> <p>18 which is the equivalent for people renting</p> <p>19 properties.</p> <p>20 And the third component would be</p> <p>21 trial prep.</p> <p>22 Q. And what about trial prep? What</p> <p>23 does that mean? Can you help me to</p> <p>24 understand what investigative services you</p> <p>25 provide in the area of trial prep?</p>

<p style="text-align: right;">Page 38</p> <p>1 N. Dondero</p> <p>2 A. Certainly.</p> <p>3 I work for private attorneys. I</p> <p>4 worked for the public defender's office.</p> <p>5 I've worked to capital murder cases on</p> <p>6 down. I look for discrepancies in</p> <p>7 statements. I find witnesses, take</p> <p>8 statements and so forth. I help the lawyer</p> <p>9 prepare for trial.</p> <p>10 Q. Okay. You're familiar with a</p> <p>11 company, the company that we identified</p> <p>12 earlier, called Highland Capital Management</p> <p>13 LP?</p> <p>14 Do I have that right?</p> <p>15 A. Yes.</p> <p>16 Q. Oh, by the way, did you ever hear</p> <p>17 of a person named James P. Seery, Jr.?</p> <p>18 A. In regards to this case, yes.</p> <p>19 Q. Did you ever investigate</p> <p>20 Mr. Seery?</p> <p>21 A. No.</p> <p>22 Q. Did you ever investigate any of</p> <p>23 the independent directors who were</p> <p>24 appointed at Strand Advisors?</p> <p>25 A. Can you tell me who they are?</p>	<p style="text-align: right;">Page 39</p> <p>1 N. Dondero</p> <p>2 Q. Russell Nelms or John Dubel?</p> <p>3 A. No.</p> <p>4 Q. Have you undertaken any</p> <p>5 investigation of any current or former</p> <p>6 employee of Highland since October 19th,</p> <p>7 2019?</p> <p>8 A. No.</p> <p>9 Q. Are you aware that Highland is</p> <p>10 the company that your brother founded with</p> <p>11 Mark Okada in the 1990s?</p> <p>12 A. Yes.</p> <p>13 Q. And you're aware that Highland</p> <p>14 filed for bankruptcy, correct?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know when that occurred?</p> <p>17 A. October of '19, I believe.</p> <p>18 Q. Okay. I'll tell you it is</p> <p>19 October 19th, 2019. And if it's okay with</p> <p>20 you, I'd like to refer to October 19th,</p> <p>21 2019, as the petition date.</p> <p>22 Is that okay?</p> <p>23 A. Certainly.</p> <p>24 Q. Okay. When did you find out that</p> <p>25 Highland filed for bankruptcy?</p>
<p style="text-align: right;">Page 40</p> <p>1 N. Dondero</p> <p>2 A. It was either the day after --</p> <p>3 when it appeared in the Dallas Morning</p> <p>4 News.</p> <p>5 Q. So you didn't have any advanced</p> <p>6 notice that your brother was going to file</p> <p>7 Highland for bankruptcy; is that right?</p> <p>8 A. I did not.</p> <p>9 Q. Did you speak to your brother</p> <p>10 after learning that Highland filed for</p> <p>11 bankruptcy?</p> <p>12 A. I would imagine I called him,</p> <p>13 sure.</p> <p>14 Q. Do you have any recollection of</p> <p>15 what was said in the phone call that you</p> <p>16 imagine occurred?</p> <p>17 A. No.</p> <p>18 Q. Okay. Do you directly or</p> <p>19 indirectly own any economic interest in</p> <p>20 Highland today?</p> <p>21 A. No.</p> <p>22 Q. Do you understand that if I use</p> <p>23 the phrase "directly or indirectly," I'm</p> <p>24 asking whether you own it in your personal</p> <p>25 name or through a company that you might</p>	<p style="text-align: right;">Page 41</p> <p>1 N. Dondero</p> <p>2 own, such as Crescent Research?</p> <p>3 A. Okay.</p> <p>4 Q. Do you understand the phrase</p> <p>5 "directly or indirectly"?</p> <p>6 A. No.</p> <p>7 Can you elaborate, please?</p> <p>8 Q. Sure.</p> <p>9 A direct interest would be an</p> <p>10 interest that you hold in your own name, in</p> <p>11 the name of Nancy Dondero.</p> <p>12 Do you understand that?</p> <p>13 A. Okay.</p> <p>14 Q. And an indirect interest is an</p> <p>15 interest that you own through some other</p> <p>16 vehicle, through some other entity in which</p> <p>17 you also have an ownership interest.</p> <p>18 Do you understand that?</p> <p>19 A. Okay.</p> <p>20 Q. Okay. So --</p> <p>21 A. Yes. But are you referring to --</p> <p>22 Q. Go ahead.</p> <p>23 A. I'm just not clear.</p> <p>24 Do you mean like Highland funds</p> <p>25 or stock?</p>

<p>Page 42</p> <p>1 N. Dondero</p> <p>2 Q. I'm only talking about Highland</p> <p>3 Capital Management LP.</p> <p>4 A. No, I have no interest.</p> <p>5 Q. Have you ever directly or</p> <p>6 indirectly owned any limited partnership</p> <p>7 interests in Highland?</p> <p>8 A. No.</p> <p>9 Q. Have you ever directly or</p> <p>10 indirectly owned any interest of any kind</p> <p>11 in Highland?</p> <p>12 A. No.</p> <p>13 Q. Do you directly or indirectly</p> <p>14 have any claims against Highland that you</p> <p>15 know of?</p> <p>16 MS. DEITSCH-PEREZ: And, again,</p> <p>17 you are still talking about Nancy</p> <p>18 Dondero?</p> <p>19 MR. MORRIS: Yes, I am. Thank</p> <p>20 you.</p> <p>21 A. No, sir.</p> <p>22 Q. Did you have an understanding of</p> <p>23 the nature of Highland's business as of the</p> <p>24 petition date?</p> <p>25 A. Generally.</p>	<p>Page 43</p> <p>1 N. Dondero</p> <p>2 Q. And what did you understand the</p> <p>3 nature of Highland's business to be as of</p> <p>4 the petition date?</p> <p>5 A. A hedge fund.</p> <p>6 Q. Do you have any understanding of</p> <p>7 what a hedge fund is?</p> <p>8 A. Not really.</p> <p>9 Q. I appreciate that.</p> <p>10 By the way, do you know if</p> <p>11 Crescent Research has any claims against</p> <p>12 Highland?</p> <p>13 A. That's a very good question.</p> <p>14 There may be – I think I am creditor for a</p> <p>15 very little bit of money, but I'm not</p> <p>16 positive on that, if that was settled.</p> <p>17 Q. Do you recall filing any claim</p> <p>18 against Highland on behalf of Crescent</p> <p>19 Research?</p> <p>20 A. I can't say definitely one way or</p> <p>21 the other, but...</p> <p>22 Q. Okay. It's a matter of record.</p> <p>23 I don't mean to test your memory. It's</p> <p>24 okay.</p> <p>25 So other than your understanding</p>
<p>Page 44</p> <p>1 N. Dondero</p> <p>2 that Highland was a hedge fund, do you have</p> <p>3 any understanding or did you have any</p> <p>4 understanding as of the petition date</p> <p>5 regarding the nature of Highland's</p> <p>6 business?</p> <p>7 A. Since the petition date?</p> <p>8 Q. As of the petition date.</p> <p>9 A. No.</p> <p>10 Q. Do you have any – I apologize.</p> <p>11 A. I know obviously it's a financial</p> <p>12 company, and it has funds and so forth.</p> <p>13 Q. Have you learned anything about</p> <p>14 the nature of Highland's business since the</p> <p>15 petition date? Anything additional?</p> <p>16 A. No.</p> <p>17 Q. Okay. Do you have an</p> <p>18 understanding of the industry that Highland</p> <p>19 operates in or that Highland operated in</p> <p>20 prior to the petition date?</p> <p>21 A. Sure. Yes.</p> <p>22 Q. What industry did you understand</p> <p>23 Highland to be operating in prior to the</p> <p>24 petition date?</p> <p>25 A. The financial industry.</p>	<p>Page 45</p> <p>1 N. Dondero</p> <p>2 Q. Were you ever employed by</p> <p>3 Highland at any time?</p> <p>4 A. No.</p> <p>5 Q. Did you ever serve as an officer</p> <p>6 or director of Highland at any time?</p> <p>7 A. No.</p> <p>8 Q. Have you ever heard of an entity</p> <p>9 called Strand Advisors Inc.?</p> <p>10 A. Yes.</p> <p>11 Q. Can we refer to that entity as</p> <p>12 "Strand"?</p> <p>13 A. Yes, sir.</p> <p>14 Q. Do you know if Strand has any</p> <p>15 relationship to Highland?</p> <p>16 A. General partner.</p> <p>17 Q. Do you recall when you learned</p> <p>18 that Strand was Highland's general partner?</p> <p>19 A. A number of years ago, I believe.</p> <p>20 Q. Do you recall how you learned</p> <p>21 that Strand was Highland's general partner?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall if you read it or</p> <p>24 if somebody told that to you?</p> <p>25 A. I do not recall.</p>

<p>Page 46</p> <p>1 N. Dondero</p> <p>2 Q. Do you recall the circumstances</p> <p>3 under which you learned that Strand was</p> <p>4 Highland's general partner?</p> <p>5 A. No, sir.</p> <p>6 Q. Have you done anything to try to</p> <p>7 verify whether Strand was in fact</p> <p>8 Highland's general partner?</p> <p>9 A. No.</p> <p>10 Q. Have you ever been employed by</p> <p>11 Strand?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. You can answer. That's one of</p> <p>16 those situations your lawyer can object to</p> <p>17 preserve the question. I think the</p> <p>18 question is fine, so you can answer the</p> <p>19 question.</p> <p>20 MS. DEITSCH-PEREZ: Do you mean</p> <p>21 technically like hired and worked as a</p> <p>22 W-2 employee?</p> <p>23 MR. MORRIS: Yes.</p> <p>24 A. Okay. And that's a no, a W-2</p> <p>25 employee.</p>	<p>Page 47</p> <p>1 N. Dondero</p> <p>2 Q. Okay. Have you ever served as an</p> <p>3 officer or director of Strand?</p> <p>4 A. No, sir.</p> <p>5 Q. Have you ever been employed by</p> <p>6 any entity in which you believed your</p> <p>7 brother had a direct or indirect ownership</p> <p>8 interest?</p> <p>9 A. No, sir.</p> <p>10 Q. Have you ever served as an</p> <p>11 officer or director for any entity in which</p> <p>12 you believed your brother had a direct or</p> <p>13 indirect ownership interest?</p> <p>14 A. No, sir.</p> <p>15 Q. Has Crescent Research ever</p> <p>16 provided services to Highland?</p> <p>17 A. Yes.</p> <p>18 Q. When did Crescent Research first</p> <p>19 provide services to Highland?</p> <p>20 A. It's been a number of years. The</p> <p>21 actual beginning, I don't know.</p> <p>22 Q. And did you, in your capacity as</p> <p>23 the owner of Crescent Research, run</p> <p>24 individualized background checks on</p> <p>25 prospective employees of Highland?</p>
<p>Page 48</p> <p>1 N. Dondero</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Did Crescent Research</p> <p>4 provide any services for Highland other</p> <p>5 than that?</p> <p>6 A. No, not that I'm aware of.</p> <p>7 Q. Okay. Have you ever been</p> <p>8 employed in the financial services</p> <p>9 industry?</p> <p>10 A. No, sir.</p> <p>11 Q. Other than as it may relate to</p> <p>12 this case, do you have any experience</p> <p>13 making decisions in the area of executive</p> <p>14 compensation?</p> <p>15 A. No.</p> <p>16 Q. Do you hold yourself out as an</p> <p>17 expert in the area of executive</p> <p>18 compensation?</p> <p>19 A. No.</p> <p>20 Q. Have you ever taken any classes</p> <p>21 or courses concerning executive</p> <p>22 compensation?</p> <p>23 A. No.</p> <p>24 Q. Have you ever been compensated</p> <p>25 for services rendered by you in the area of</p>	<p>Page 49</p> <p>1 N. Dondero</p> <p>2 executive compensation?</p> <p>3 A. No.</p> <p>4 Q. Have you ever conferred with</p> <p>5 anybody who you believed to be an expert in</p> <p>6 the area of executive compensation?</p> <p>7 A. No, sir.</p> <p>8 Q. Have you ever prepared any</p> <p>9 analysis of any kind concerning executive</p> <p>10 compensation?</p> <p>11 A. No, sir.</p> <p>12 Q. Have you ever asked anyone to</p> <p>13 prepare any analysis of any kind in the</p> <p>14 area of executive compensation?</p> <p>15 A. No.</p> <p>16 Q. Has anyone ever prepared an</p> <p>17 analysis for you in the area of executive</p> <p>18 compensation?</p> <p>19 A. I'm sorry, sir. Can you repeat</p> <p>20 that question?</p> <p>21 Q. Sure.</p> <p>22 Did anybody ever prepare any</p> <p>23 analysis for you that covered the topic –</p> <p>24 any topic concerning executive</p> <p>25 compensation?</p>

<p>Page 50</p> <p>1 N. Dondero</p> <p>2 A. No.</p> <p>3 Q. Do you have any knowledge as to</p> <p>4 how executives are compensated in the</p> <p>5 financial industry?</p> <p>6 A. Just a general awareness.</p> <p>7 Q. And what is the basis, what is</p> <p>8 the foundation of your general awareness?</p> <p>9 A. Obviously the better a company</p> <p>10 does, probably the more the CEO is paid.</p> <p>11 Q. Do you have any understanding of</p> <p>12 how executives are compensated in the</p> <p>13 financial industry other than that?</p> <p>14 A. No, sir.</p> <p>15 Q. All right. So now I'm going to</p> <p>16 ask you the same questions in your capacity</p> <p>17 as the trustee of Dugaboy.</p> <p>18 Did Dugaboy ever prepare any</p> <p>19 written analysis concerning executive</p> <p>20 compensation?</p> <p>21 A. No, sir.</p> <p>22 Q. Has Dugaboy ever asked anybody to</p> <p>23 prepare any analysis on any issue</p> <p>24 concerning executive compensation?</p> <p>25 A. No.</p>	<p>Page 51</p> <p>1 N. Dondero</p> <p>2 Q. Have you in your capacity as the</p> <p>3 trustee of Dugaboy ever prepared any</p> <p>4 analysis on the issue of executive</p> <p>5 compensation?</p> <p>6 A. No.</p> <p>7 Q. Have you ever done any analysis</p> <p>8 of the compensation that your brother</p> <p>9 received from Highland over time?</p> <p>10 A. Not that I am aware of.</p> <p>11 Q. Do you have any information that</p> <p>12 you can share with me concerning the</p> <p>13 compensation that you your brother received</p> <p>14 from Highland at any moment in time?</p> <p>15 A. In general terms, sure.</p> <p>16 Q. What can you share with me in</p> <p>17 general terms?</p> <p>18 A. I know Jim was not highly paid.</p> <p>19 I know for the last couple of years, his</p> <p>20 salary has been roughly less than a</p> <p>21 million, 500, 700,000, somewhere in that</p> <p>22 ballpark.</p> <p>23 Q. Did you play any role in the</p> <p>24 setting of his salary?</p> <p>25 A. I'm sorry?</p>
<p>Page 52</p> <p>1 N. Dondero</p> <p>2 Q. Did you personally ever play any</p> <p>3 role in the setting of Mr. Dondero's</p> <p>4 salary?</p> <p>5 A. In the salary that we are talking</p> <p>6 about, no, I did not.</p> <p>7 Q. Thank you.</p> <p>8 Did Dugaboy play any role in the</p> <p>9 setting of Mr. Dondero's salary?</p> <p>10 MS. DEITSCH-PEREZ: Do you mean</p> <p>11 setting or approving, John?</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Let's go with setting first.</p> <p>14 A. Okay. No.</p> <p>15 Q. Did Dugaboy play any role in</p> <p>16 approving Mr. Dondero's salary?</p> <p>17 A. It has that right, but I don't</p> <p>18 believe it did in the salary that he had at</p> <p>19 the time.</p> <p>20 Q. Okay. I just want to nail this</p> <p>21 down.</p> <p>22 To the best of your recollection,</p> <p>23 Dugaboy never played a role in approving</p> <p>24 Mr. Dondero's salary.</p> <p>25 Do I have that right?</p>	<p>Page 53</p> <p>1 N. Dondero</p> <p>2 A. Can you rephrase that so I</p> <p>3 understand?</p> <p>4 Q. Sure.</p> <p>5 Can you think of any year in</p> <p>6 which Dugaboy approved of Mr. Dondero's</p> <p>7 salary from Highland?</p> <p>8 A. His actual salary?</p> <p>9 Q. Correct.</p> <p>10 A. Not – we are not talking about</p> <p>11 the notes now; you are talking about</p> <p>12 salary?</p> <p>13 Q. Yes.</p> <p>14 A. No – yes, okay, not to my</p> <p>15 recollection.</p> <p>16 Q. Do you know what Mr. Dondero's</p> <p>17 total compensation was in the year 2017?</p> <p>18 A. His total compensation, no.</p> <p>19 Q. Did you ever ask anybody what his</p> <p>20 compensation was in the year 2017?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Do you know what Mr. Dondero's</p> <p>23 total compensation was in 2018?</p> <p>24 A. When you're saying "total," you</p> <p>25 mean just from Highland or from any entity?</p>

<p style="text-align: right;">Page 54</p> <p>1 N. Dondero</p> <p>2 Q. I'm just talking about Highland.</p> <p>3 A. Okay. Didn't we talk about those</p> <p>4 numbers?</p> <p>5 Q. We talked about salary before.</p> <p>6 A. Right.</p> <p>7 Q. And now I'm asking you about</p> <p>8 total compensation.</p> <p>9 Do you understand that.</p> <p>10 A. No, I don't.</p> <p>11 Q. Let me try again. Thank you for</p> <p>12 letting me know that. And I encourage you</p> <p>13 to let me know if you don't understand a</p> <p>14 question.</p> <p>15 Do you know what Mr. Dondero's</p> <p>16 total compensation was from Highland in</p> <p>17 2017?</p> <p>18 A. No, I do not.</p> <p>19 Q. Did you ever ask anybody what</p> <p>20 Mr. Dondero's total compensation from</p> <p>21 Highland was in 2017?</p> <p>22 A. No. Other than the figures that</p> <p>23 we are talking about. Because I'm still</p> <p>24 not understanding, John. I'm sorry.</p> <p>25 Q. Well, do you understand that</p>	<p style="text-align: right;">Page 55</p> <p>1 N. Dondero</p> <p>2 salary is just one component of</p> <p>3 Mr. Dondero's compensation?</p> <p>4 A. That's correct.</p> <p>5 Q. Okay.</p> <p>6 A. Um-hmm. That, I understand.</p> <p>7 Q. Okay. And so do you understand</p> <p>8 that I'm moving from salary to total</p> <p>9 compensation, and I'm asking for the value</p> <p>10 of any benefits he received from Highland</p> <p>11 when I use the word "compensation"?</p> <p>12 A. Okay. And –</p> <p>13 Q. So with that understanding, I'm</p> <p>14 going to start again.</p> <p>15 Do you know what Mr. Dondero's</p> <p>16 total compensation was in 2017?</p> <p>17 A. I do not know.</p> <p>18 Q. Did you ever ask anybody what</p> <p>19 Mr. Dondero's total compensation was in</p> <p>20 2017?</p> <p>21 A. No.</p> <p>22 Q. Did Dugaboy know what</p> <p>23 Mr. Dondero's compensation was in 2017?</p> <p>24 A. I do not believe so.</p> <p>25 Q. To the best of your knowledge,</p>
<p style="text-align: right;">Page 56</p> <p>1 N. Dondero</p> <p>2 did anybody on behalf of Dugaboy ever try</p> <p>3 to ascertain what Mr. Dondero's total</p> <p>4 compensation was in 2017?</p> <p>5 A. To the best of my knowledge, no.</p> <p>6 Q. Do you know what Mr. Dondero's</p> <p>7 total compensation from Highland was in</p> <p>8 2018?</p> <p>9 A. No.</p> <p>10 Q. Did you ever ask anybody what</p> <p>11 Mr. Dondero's total compensation was in</p> <p>12 2018?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Did Dugaboy know what</p> <p>15 Mr. Dondero's total compensation was for</p> <p>16 2018?</p> <p>17 A. I don't think so.</p> <p>18 Q. To the best of your knowledge,</p> <p>19 did anybody ever ask on behalf of Dugaboy</p> <p>20 what Mr. Dondero's total compensation from</p> <p>21 Highland was in 2018?</p> <p>22 A. I don't recall. I don't know.</p> <p>23 Q. Do you know what Mr. Dondero's</p> <p>24 total compensation was in 2019?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 57</p> <p>1 N. Dondero</p> <p>2 Q. Did you ever ask anybody what</p> <p>3 Mr. Dondero's total compensation was in</p> <p>4 2019?</p> <p>5 A. Not that I remember.</p> <p>6 Q. Did Dugaboy know what</p> <p>7 Mr. Dondero's total compensation from</p> <p>8 Highland was in 2019?</p> <p>9 A. I don't believe so.</p> <p>10 Q. Do you know whether Dugaboy ever</p> <p>11 asked anybody what Mr. Dondero's total</p> <p>12 compensation was from Highland in 2019?</p> <p>13 A. I don't think so.</p> <p>14 THE WITNESS: Would it be okay if</p> <p>15 we take a break?</p> <p>16 MR. MORRIS: Just a couple more</p> <p>17 questions, Deborah.</p> <p>18 You know what, I apologize. Of</p> <p>19 course, of course we can take a break.</p> <p>20 MR. DRAPER: John, this is</p> <p>21 Douglas. Let me raise an issue with</p> <p>22 you.</p> <p>23 MR. MORRIS: Do you want to do</p> <p>24 this on the record?</p> <p>25 MR. DRAPER: Well, we can do it</p>

<p>Page 58</p> <p>1 N. Dondero</p> <p>2 off the record. But I just noticed on</p> <p>3 the participants you have Page</p> <p>4 Montgomery and Deborah Newman, who are</p> <p>5 not parties to this litigation, and I</p> <p>6 would request that you ask them to get</p> <p>7 off the line.</p> <p>8 MR. MORRIS: Okay. I'll take it</p> <p>9 under advisement, Douglas, but I will</p> <p>10 point out that there have always been</p> <p>11 people who have -- they actually have</p> <p>12 an interest in this litigation, so I'm</p> <p>13 not even going to address that. They</p> <p>14 have an interest in the litigation,</p> <p>15 okay?</p> <p>16 MR. DRAPER: John --</p> <p>17 MR. MORRIS: Let's go off the</p> <p>18 record, please.</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 10:30. We are going off the record.</p> <p>21 (Recess is taken.)</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 10:51. Back on the record.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Ms. Dondero, can you hear me?</p>	<p>Page 59</p> <p>1 N. Dondero</p> <p>2 A. I can.</p> <p>3 Q. Okay. Did you communicate with</p> <p>4 anybody during the break about any of the</p> <p>5 questions that I asked?</p> <p>6 A. No.</p> <p>7 Q. Did you communicate with anybody</p> <p>8 on the break regarding any answers you gave</p> <p>9 to any of the questions that I asked?</p> <p>10 A. No.</p> <p>11 Q. Did you communicate with anybody</p> <p>12 on the break about any questions that I</p> <p>13 might ask in the future?</p> <p>14 A. No.</p> <p>15 Q. Did you communicate with anybody</p> <p>16 on the break about any answers you might</p> <p>17 give in the future?</p> <p>18 A. No.</p> <p>19 Q. I believe you testified earlier</p> <p>20 that you learned that your brother received</p> <p>21 less than a million dollars in salary.</p> <p>22 Do I have that right?</p> <p>23 A. Yes.</p> <p>24 Q. Can you tell me when you learned</p> <p>25 that?</p>
<p>Page 60</p> <p>1 N. Dondero</p> <p>2 A. I don't remember.</p> <p>3 Q. Do you remember how you learned</p> <p>4 it?</p> <p>5 A. No.</p> <p>6 Q. Did you ever know that your</p> <p>7 brother received a salary of a million</p> <p>8 dollars from Highland?</p> <p>9 A. A million dollars even?</p> <p>10 Q. Yes.</p> <p>11 A. No.</p> <p>12 Q. Did you ever learn that your</p> <p>13 brother had his salary increased to</p> <p>14 two-and-a-half million dollars from</p> <p>15 Highland?</p> <p>16 A. When?</p> <p>17 Q. I'm just asking if you ever</p> <p>18 learned it.</p> <p>19 A. Oh, no.</p> <p>20 Q. Did you ever learn that somebody</p> <p>21 made a decision to allocate the</p> <p>22 two-and-a-half million dollars between and</p> <p>23 among different entities that your brother</p> <p>24 owned and controlled?</p> <p>25 A. I have no idea.</p>	<p>Page 61</p> <p>1 N. Dondero</p> <p>2 Q. Did you have any conversation at</p> <p>3 any time with your brother about why he was</p> <p>4 receiving less than a million dollars from</p> <p>5 Highland?</p> <p>6 A. Why he was?</p> <p>7 Q. Yes.</p> <p>8 A. No.</p> <p>9 Q. Did you ever learn at any time</p> <p>10 how your brother's salary was established?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Did you ever learn at any time as</p> <p>13 to who made the decision to set your</p> <p>14 brother's salary?</p> <p>15 A. Set his salary? No.</p> <p>16 Q. Are you aware your brother has</p> <p>17 retained experts in this case?</p> <p>18 A. I was not aware.</p> <p>19 Q. So is it fair to say that you've</p> <p>20 never spoken with any expert retained by</p> <p>21 your brother?</p> <p>22 A. Not that I'm aware of.</p> <p>23 Q. Let's talk about access to</p> <p>24 financial information.</p> <p>25 Do you have an understanding of</p>

<p>Page 62</p> <p>1 N. Dondero</p> <p>2 the term "financial statements"?</p> <p>3 A. Yes.</p> <p>4 Q. And what's your understanding of</p> <p>5 the term "financial statements"?</p> <p>6 A. Balance sheets, bank statements.</p> <p>7 Q. Would it include profit and loss</p> <p>8 statements?</p> <p>9 A. Certainly.</p> <p>10 Q. Would it include statements of</p> <p>11 operations?</p> <p>12 A. I would imagine, yes.</p> <p>13 Q. Using a definition of the term</p> <p>14 financial statements that incorporates each</p> <p>15 of the items that we just discussed, did</p> <p>16 you ever review Highland's financial</p> <p>17 statements prior to the petition date?</p> <p>18 A. No, I haven't reviewed Highland's</p> <p>19 financials.</p> <p>20 Q. Is it fair to say that you never</p> <p>21 reviewed Highland's balance sheet prior to</p> <p>22 the petition date?</p> <p>23 A. That's fair. Correct.</p> <p>24 Q. Did you ever see Highland's</p> <p>25 audited financial statements prior to the</p>	<p>Page 63</p> <p>1 N. Dondero</p> <p>2 petition date?</p> <p>3 A. Not that I remember, no.</p> <p>4 Q. Did you ever ask anybody to see</p> <p>5 Highland's financial statements?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Did you ever have access to</p> <p>8 Highland's financial statements?</p> <p>9 A. No.</p> <p>10 Q. Did you know anything about</p> <p>11 Highland's financial condition prior to the</p> <p>12 petition date?</p> <p>13 A. No, I was not aware.</p> <p>14 Q. Have you ever heard of the term</p> <p>15 "portfolio company" in relation to</p> <p>16 Highland?</p> <p>17 A. I have.</p> <p>18 Q. Do you have an understanding of</p> <p>19 the term "portfolio company" as it relates</p> <p>20 to Highland?</p> <p>21 A. Yes, generally.</p> <p>22 Q. What is your general</p> <p>23 understanding of the term "portfolio</p> <p>24 company" as it relates to Highland?</p> <p>25 A. As I understand it, they're</p>
<p>Page 64</p> <p>1 N. Dondero</p> <p>2 companies owned by Highland under their</p> <p>3 umbrella.</p> <p>4 Q. And how did you form that</p> <p>5 understanding?</p> <p>6 A. I don't know.</p> <p>7 Q. Do you recall when you first came</p> <p>8 to the understanding that you have</p> <p>9 concerning the term "portfolio company" as</p> <p>10 it relates to Highland?</p> <p>11 A. No.</p> <p>12 Q. Based on your understanding of</p> <p>13 the term "portfolio company," do you know</p> <p>14 how many portfolio companies Highland had</p> <p>15 prior to the petition date?</p> <p>16 A. Several.</p> <p>17 Q. Can you give me an approximate</p> <p>18 number, to the best of your understanding?</p> <p>19 A. More than – I would imagine more</p> <p>20 than three.</p> <p>21 Q. And why do you imagine it's more</p> <p>22 than three?</p> <p>23 A. Because I'm aware of three.</p> <p>24 Q. Are you aware of any others,</p> <p>25 other than the three that you have in your</p>	<p>Page 65</p> <p>1 N. Dondero</p> <p>2 head?</p> <p>3 A. Not off the top of my head, no.</p> <p>4 Q. Can you identify any of the three</p> <p>5 portfolio companies that you have in your</p> <p>6 head?</p> <p>7 A. Certainly.</p> <p>8 Q. Okay. Can you please identify</p> <p>9 them?</p> <p>10 A. Trussway, Cornerstone, MGM.</p> <p>11 Q. And you believe that Highland had</p> <p>12 a – withdrawn.</p> <p>13 And your understanding was that</p> <p>14 Highland directly or indirectly owned each</p> <p>15 of those three companies?</p> <p>16 A. That was my understanding.</p> <p>17 Q. And what was the basis for that</p> <p>18 understanding?</p> <p>19 A. The basis of that understanding</p> <p>20 has to do with the forgiveness of the note.</p> <p>21 Q. So how did you learn that</p> <p>22 Highland had a direct or indirect economic</p> <p>23 interest in each of the three portfolio</p> <p>24 companies that you identified?</p> <p>25 A. I believe it was from Jim.</p>

<p>Page 66</p> <p>1 N. Dondero</p> <p>2 Q. Do you recall any source of</p> <p>3 information other than Jim?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Prior to the petition date, were</p> <p>6 you aware of the price that Highland paid</p> <p>7 to acquire its interest in each of the</p> <p>8 three portfolio companies that you</p> <p>9 identified?</p> <p>10 A. Not that I am aware of.</p> <p>11 Q. Did you ever ask for any</p> <p>12 information concerning the price that</p> <p>13 Highland paid to acquire its interest in</p> <p>14 each of the three portfolio companies that</p> <p>15 you identified?</p> <p>16 A. No.</p> <p>17 Q. Prior to the petition date, did</p> <p>18 you have access to any information</p> <p>19 concerning the value of any of the three</p> <p>20 portfolio companies that you identified?</p> <p>21 A. Not that I am aware of.</p> <p>22 Q. Prior to the petition date –</p> <p>23 well, let's talk about them individually.</p> <p>24 You referred to MGM.</p> <p>25 Do I have that right?</p>	<p>Page 67</p> <p>1 N. Dondero</p> <p>2 A. Yes, sir.</p> <p>3 Q. And your understanding is that</p> <p>4 MGM was a Highland portfolio company; is</p> <p>5 that right?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any knowledge about</p> <p>8 the nature of Highland's interest in MGM?</p> <p>9 A. No.</p> <p>10 Q. Do you know if Highland owns debt</p> <p>11 or equity in MGM?</p> <p>12 A. I couldn't be sure.</p> <p>13 Q. Do you know when Highland</p> <p>14 acquired its interest in MGM?</p> <p>15 A. A number of years ago.</p> <p>16 MR. MORRIS: I just want the</p> <p>17 record to be clear and I want counsel</p> <p>18 to be clear, these questions that I'm</p> <p>19 asking now are going to be in</p> <p>20 Ms. Dondero's capacity as a 30(b)(6)</p> <p>21 witness for Dugaboy.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. So I'm going to ask a couple of</p> <p>24 questions.</p> <p>25 Again, at any time prior to the</p>
<p>Page 68</p> <p>1 N. Dondero</p> <p>2 petition date, did Dugaboy have an</p> <p>3 understanding of the nature of Highland's</p> <p>4 interest in MGM?</p> <p>5 A. Not that I'm aware of. Well,</p> <p>6 wait, I'm sorry. Can you – wait. Ask</p> <p>7 that again, John. Say that again.</p> <p>8 Q. Sure.</p> <p>9 At any time prior to the petition</p> <p>10 date –</p> <p>11 A. Right.</p> <p>12 Q. – did Dugaboy have an</p> <p>13 understanding as to the nature of</p> <p>14 Highland's interest in MGM?</p> <p>15 A. I knew that they had an interest</p> <p>16 in MGM prior to the petition date.</p> <p>17 Q. Okay. Did you or Dugaboy know</p> <p>18 the nature of that interest, in what form</p> <p>19 it held?</p> <p>20 A. Not specifically, John.</p> <p>21 Q. Did you or Dugaboy make any</p> <p>22 effort prior to the petition date to learn</p> <p>23 about the nature and extent of Highland's</p> <p>24 interest in MGM?</p> <p>25 A. Not that I recall.</p>	<p>Page 69</p> <p>1 N. Dondero</p> <p>2 Q. Did you or Dugaboy know what</p> <p>3 Highland's cost was to acquire its interest</p> <p>4 in MGM?</p> <p>5 A. No.</p> <p>6 Q. Did you or Dugaboy ever make any</p> <p>7 effort to try to determine what Highland's</p> <p>8 cost was to acquire its interest in MGM?</p> <p>9 A. No.</p> <p>10 Q. Did you ever ask for any</p> <p>11 information – withdrawn.</p> <p>12 Did you or Dugaboy ever ask</p> <p>13 anybody for any information concerning</p> <p>14 Highland's cost to acquire its interest in</p> <p>15 MGM?</p> <p>16 A. No.</p> <p>17 Q. Did you or Dugaboy ever obtain</p> <p>18 any information concerning the value of</p> <p>19 Highland's interest in MGM?</p> <p>20 A. Not that I recall.</p> <p>21 Q. Do you recall the value of</p> <p>22 Highland's interest in MGM as you sit here</p> <p>23 today?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>

<p>Page 70</p> <p>1 N. Dondero</p> <p>2 A. I'm sorry, John, the question?</p> <p>3 Q. Sure.</p> <p>4 I'm going to ask a different</p> <p>5 question. It was a fine objection.</p> <p>6 Do you recall the value of</p> <p>7 Highland's interest in MGM at any time</p> <p>8 prior to the petition date?</p> <p>9 A. I do not recall.</p> <p>10 Q. Did you or Dugaboy ever know the</p> <p>11 value of Highland's interest in MGM at any</p> <p>12 time prior to the petition date?</p> <p>13 A. No.</p> <p>14 Q. Did you or Dugaboy ever ask for</p> <p>15 any information concerning the value of</p> <p>16 Highland's interest in MGM at any time</p> <p>17 prior to the petition date?</p> <p>18 A. Not that I remember.</p> <p>19 Q. Prior to the petition date, did</p> <p>20 you or Dugaboy ever make any determination</p> <p>21 as to whether the value of Highland's</p> <p>22 interest in MGM exceeded its cost?</p> <p>23 A. I'm sorry. Can you repeat that,</p> <p>24 John?</p> <p>25 Q. Sure.</p>	<p>Page 71</p> <p>1 N. Dondero</p> <p>2 At any time prior to the petition</p> <p>3 date, did you or Dugaboy ever know whether</p> <p>4 the value of Highland's interest in MGM</p> <p>5 exceeded the cost that it paid to acquire</p> <p>6 that interest?</p> <p>7 A. We didn't know.</p> <p>8 Q. Did you or Dugaboy ever ask</p> <p>9 anybody prior to the petition date whether</p> <p>10 Highland's cost to acquire its interest in</p> <p>11 MGM was more or less than the value?</p> <p>12 A. No, we never made that inquiry.</p> <p>13 Q. Now do you know the nature of the</p> <p>14 MGM business?</p> <p>15 A. The movie theater and video</p> <p>16 library, that type.</p> <p>17 Q. Do you know anything else about</p> <p>18 the nature of MGM's business other than</p> <p>19 that?</p> <p>20 A. No.</p> <p>21 Q. At any time prior to the petition</p> <p>22 date, did you or Dugaboy do any due</p> <p>23 diligence to try to ascertain the value of</p> <p>24 MGM?</p> <p>25 A. Prior to the petition date?</p>
<p>Page 72</p> <p>1 N. Dondero</p> <p>2 Q. Yes.</p> <p>3 A. No.</p> <p>4 Q. All right. I'm going to ask</p> <p>5 similar questions with respect to</p> <p>6 Cornerstone.</p> <p>7 Cornerstone is one of the</p> <p>8 portfolio companies that you identified</p> <p>9 earlier, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And did you learn from Jim that</p> <p>12 Cornerstone was one of Highland's portfolio</p> <p>13 companies prior to the petition date?</p> <p>14 A. I believe that is correct.</p> <p>15 Q. Do you have any other source of</p> <p>16 information for that other than your</p> <p>17 brother?</p> <p>18 A. Not that I remember.</p> <p>19 Q. At any time prior to the petition</p> <p>20 date, did you or Dugaboy have an</p> <p>21 understanding as to the nature of</p> <p>22 Highland's interest in Cornerstone?</p> <p>23 A. No.</p> <p>24 Q. At any time prior to the petition</p> <p>25 date, did you or Dugaboy ask anybody what</p>	<p>Page 73</p> <p>1 N. Dondero</p> <p>2 the nature of Highland's interest was in</p> <p>3 Cornerstone?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Prior to the petition date, did</p> <p>6 you or Dugaboy make any effort to try to</p> <p>7 ascertain the nature of Highland's interest</p> <p>8 in Cornerstone?</p> <p>9 A. Not that I remember.</p> <p>10 Q. Prior to the petition date, did</p> <p>11 you or Dugaboy know how much Highland paid</p> <p>12 to acquire its interest in Cornerstone?</p> <p>13 A. No.</p> <p>14 Q. Prior to the petition date, did</p> <p>15 you or Dugaboy ever ask anybody what</p> <p>16 Highland's cost was to acquire its interest</p> <p>17 in Cornerstone?</p> <p>18 A. Not that I remember.</p> <p>19 Q. Prior to the petition date, did</p> <p>20 you or Dugaboy ever make any effort to try</p> <p>21 to ascertain how much Highland paid to</p> <p>22 acquire its interest in Cornerstone?</p> <p>23 A. No.</p> <p>24 Q. Do you know what Cornerstone --</p> <p>25 do you know the nature of Cornerstone's</p>

<p>Page 74</p> <p>1 N. Dondero</p> <p>2 business?</p> <p>3 A. I do not.</p> <p>4 Q. Did you ever ask anybody what the</p> <p>5 nature of Comerstone's business was?</p> <p>6 A. No.</p> <p>7 Q. Did you ever make any effort –</p> <p>8 withdrawn.</p> <p>9 Did you or Dugaboy ever make any</p> <p>10 effort to try to determine the nature of</p> <p>11 Comerstone's business?</p> <p>12 A. Not that I recall.</p> <p>13 Q. Did you or Dugaboy know the value</p> <p>14 of Highland's interest in Comerstone prior</p> <p>15 to the petition date?</p> <p>16 A. We did not.</p> <p>17 Q. Did you or Dugaboy ever ask</p> <p>18 anybody prior to the petition date what the</p> <p>19 value of Highland's interest in Comerstone</p> <p>20 was?</p> <p>21 A. Not that I remember.</p> <p>22 Q. Do you remember whether you or</p> <p>23 Dugaboy made any effort prior to the</p> <p>24 petition date to try to ascertain the value</p> <p>25 of Highland's interest in Comerstone?</p>	<p>Page 75</p> <p>1 N. Dondero</p> <p>2 A. I don't believe so.</p> <p>3 Q. Have you heard of a company</p> <p>4 called Trussway?</p> <p>5 A. Yes.</p> <p>6 Q. Do you know the nature of</p> <p>7 Trussway's business?</p> <p>8 A. I do not.</p> <p>9 Q. Did you ever ask anybody what the</p> <p>10 nature of Trussway's business was?</p> <p>11 A. No, sir.</p> <p>12 Q. Did you or Dugaboy make any</p> <p>13 effort at any time prior to the petition</p> <p>14 date to try to understand the nature of</p> <p>15 Trussway's business?</p> <p>16 A. I don't believe so.</p> <p>17 Q. Did you or Dugaboy make any</p> <p>18 effort prior to the petition date to</p> <p>19 understand the financial condition of MGM?</p> <p>20 A. Of MGM? I'm sorry. I thought we</p> <p>21 were talking about Trussway. We're going</p> <p>22 back to MGM?</p> <p>23 Q. We were. I'm sorry. It's a new</p> <p>24 question. I'm just going to tick the box.</p> <p>25 A. Oh, okay. I'm sorry. I was a</p>
<p>Page 76</p> <p>1 N. Dondero</p> <p>2 little slow on the switch.</p> <p>3 Q. That's okay.</p> <p>4 A. Can you repeat the question?</p> <p>5 Q. Sure.</p> <p>6 Did you or Dugaboy make any</p> <p>7 effort prior to the petition date to assess</p> <p>8 MGM's financial condition?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Did you or Dugaboy make any</p> <p>11 effort prior to the petition date to try to</p> <p>12 understand the financial condition of</p> <p>13 Comerstone?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Did you or Dugaboy prior to the</p> <p>16 petition date make any effort to try to</p> <p>17 understand the financial condition of</p> <p>18 Trussway?</p> <p>19 A. No, not that I recall.</p> <p>20 Q. Is it your understanding that</p> <p>21 Trussway was one of the portfolio</p> <p>22 companies, as you defined it earlier?</p> <p>23 A. Yes.</p> <p>24 Q. And is that understanding based</p> <p>25 solely on information that you received</p>	<p>Page 77</p> <p>1 N. Dondero</p> <p>2 from your brother?</p> <p>3 A. Yes. Yes.</p> <p>4 Q. Okay. At any time prior to the</p> <p>5 petition date, did you or Dugaboy have an</p> <p>6 understanding as to the nature of</p> <p>7 Highland's interest in Trussway?</p> <p>8 A. I don't know.</p> <p>9 Q. Do you recall whether you or</p> <p>10 Dugaboy ever had an understanding prior to</p> <p>11 the petition date concerning the nature of</p> <p>12 Highland's interest in Trussway?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you recall that either you or</p> <p>15 Dugaboy ever asked anybody what the nature</p> <p>16 of Highland's interest in Trussway was</p> <p>17 prior to the petition date?</p> <p>18 A. I don't believe so.</p> <p>19 Q. Prior to the petition date, did</p> <p>20 you or Dugaboy make any effort to try to</p> <p>21 determine the nature of Highland's interest</p> <p>22 in Trussway?</p> <p>23 A. I don't believe so.</p> <p>24 Q. Prior to the petition date, did</p> <p>25 you or Dugaboy know Highland's cost to</p>

<p>Page 78</p> <p>1 N. Dondero</p> <p>2 acquire its interest in Trussway?</p> <p>3 A. We did not.</p> <p>4 Q. Prior to the petition date, did</p> <p>5 you or Dugaboy ever ask anybody what</p> <p>6 Highland's cost was to acquire its interest</p> <p>7 in Trussway?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Prior to the petition date, did</p> <p>10 you or Dugaboy make any effort to try to</p> <p>11 ascertain what Highland's cost was to</p> <p>12 acquire its interest in Trussway?</p> <p>13 A. Not that I remember.</p> <p>14 Q. Did you or Dugaboy know the value</p> <p>15 of Highland's interest in Trussway prior to</p> <p>16 the petition date?</p> <p>17 A. Not that I am aware of.</p> <p>18 Q. Prior to the petition date, did</p> <p>19 you or Dugaboy ever ask anybody what the</p> <p>20 value of Highland's interest was in</p> <p>21 Trussway?</p> <p>22 A. I don't think so.</p> <p>23 Q. Do you know whether you or</p> <p>24 Dugaboy prior to the petition date made any</p> <p>25 effort to try to ascertain the value of</p>	<p>Page 79</p> <p>1 N. Dondero</p> <p>2 Highland's interest in Trussway?</p> <p>3 A. I don't believe so.</p> <p>4 Q. Did you or Dugaboy know prior to</p> <p>5 the petition date whether the value of</p> <p>6 Highland's interest in Trussway was more or</p> <p>7 less than its cost?</p> <p>8 A. I do not know.</p> <p>9 Q. Did you ever ask anybody –</p> <p>10 withdrawn.</p> <p>11 Did you or Dugaboy ever ask</p> <p>12 anybody prior to the petition date whether</p> <p>13 the value of Highland's interest in</p> <p>14 Trussway was more or less than its cost?</p> <p>15 A. I don't think so.</p> <p>16 Q. Did you or Dugaboy make any</p> <p>17 attempt prior to the petition date to</p> <p>18 determine whether the value of Highland's</p> <p>19 interest in Trussway was more or less than</p> <p>20 its cost?</p> <p>21 A. I don't think so.</p> <p>22 Q. Okay. I apologize if I asked</p> <p>23 these questions already. I think I may</p> <p>24 have forgotten them, but I'm just going to</p> <p>25 ask just those last couple of questions –</p>
<p>Page 80</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: All of them.</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. – related to Cornerstone.</p> <p>5 A. Okay.</p> <p>6 Q. Did you or Dugaboy know prior to</p> <p>7 the petition date whether the value of</p> <p>8 Highland's interest in Cornerstone was more</p> <p>9 or less than its cost?</p> <p>10 A. I don't know if we knew.</p> <p>11 Q. Did you or Dugaboy ask anybody</p> <p>12 prior to the petition date whether the</p> <p>13 value of Highland's interest in Cornerstone</p> <p>14 was more or less than its cost?</p> <p>15 A. I don't recall.</p> <p>16 Q. Do you know whether you or</p> <p>17 Dugaboy made any effort prior to the</p> <p>18 petition date to determine whether</p> <p>19 Highland's – whether the value of</p> <p>20 Highland's interest in Cornerstone was more</p> <p>21 or less than its cost?</p> <p>22 A. I don't remember.</p> <p>23 Q. Okay. I'm going to shift gears</p> <p>24 now to talk about loans.</p> <p>25 A. Okay.</p>	<p>Page 81</p> <p>1 N. Dondero</p> <p>2 Q. All right. You're aware that</p> <p>3 from time to time, Highland provided loans</p> <p>4 to certain of its officers and employees,</p> <p>5 right?</p> <p>6 A. I am.</p> <p>7 Q. And you're aware that in exchange</p> <p>8 for the loans from Highland, the officers</p> <p>9 and employees gave Highland promissory</p> <p>10 notes?</p> <p>11 A. Correct.</p> <p>12 Q. Are you aware of any loan that</p> <p>13 Highland ever gave to an officer or</p> <p>14 employee where the officer or employee</p> <p>15 failed to give a promissory note in return?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. John, I'm sorry. Can you repeat</p> <p>19 the question, please?</p> <p>20 Q. Yeah.</p> <p>21 I just want to know if you are</p> <p>22 aware of any instance where Highland gave a</p> <p>23 loan to an officer or an employee where the</p> <p>24 officer or employee failed to give Highland</p> <p>25 a promissory note in exchange?</p>

<p style="text-align: right;">Page 82</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. You can answer.</p> <p>6 A. I am not aware of any.</p> <p>7 Q. Okay. Do you have a general</p> <p>8 understanding of what a promissory note is?</p> <p>9 A. A promise to pay.</p> <p>10 Q. Okay. Is it a promise to pay a</p> <p>11 sum certain?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 MR. MORRIS: Withdrawn.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Do you understand that a</p> <p>17 promissory note is a promise to pay a</p> <p>18 specified amount at some point in the</p> <p>19 future?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. You can answer.</p> <p>24 A. That was my understanding, John.</p> <p>25 Q. Okay. Prior to the petition</p>	<p style="text-align: right;">Page 83</p> <p>1 N. Dondero</p> <p>2 date, did you ever see any promissory note</p> <p>3 that was signed by an officer or employee</p> <p>4 of Highland?</p> <p>5 A. I'm not sure.</p> <p>6 Q. Do you have any recollection --</p> <p>7 do you have any recollection, as you sit</p> <p>8 here right now, of having seen a promissory</p> <p>9 note that was signed by an officer or</p> <p>10 employee of Highland prior to the petition</p> <p>11 date?</p> <p>12 Withdrawn. That is not a good</p> <p>13 question?</p> <p>14 Prior to the petition date, did</p> <p>15 you see any promissory note that was signed</p> <p>16 by any officer or employee of Highland?</p> <p>17 A. I don't remember.</p> <p>18 Q. You don't have any recollection</p> <p>19 of that; is that fair?</p> <p>20 A. That's fair.</p> <p>21 Q. Do you know whether Dugaboy ever</p> <p>22 saw any promissory note prior to the</p> <p>23 petition date that had been signed by an</p> <p>24 officer or employee of Highland?</p> <p>25 A. I don't know.</p>
<p style="text-align: right;">Page 84</p> <p>1 N. Dondero</p> <p>2 Q. Prior to the petition date, did</p> <p>3 you or Dugaboy ever ask to see any</p> <p>4 promissory note that was executed by an</p> <p>5 officer or employee of Highland?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. I don't remember, John.</p> <p>9 Q. Okay. Do you know if Highland</p> <p>10 ever forgave any obligations under any</p> <p>11 promissory note that was issued by any</p> <p>12 Highland employee or officer?</p> <p>13 MS. DEITSCH-PEREZ: Objection.</p> <p>14 No foundation.</p> <p>15 A. I am not aware.</p> <p>16 Q. You're not aware of Highland ever</p> <p>17 forgiving any loan that it made to any</p> <p>18 officer or employee.</p> <p>19 Do I have that right?</p> <p>20 MS. DEITSCH-PEREZ: Object. No</p> <p>21 foundation.</p> <p>22 A. I'm not sure, John. I'm not</p> <p>23 sure.</p> <p>24 Q. Does Dugaboy have any knowledge</p> <p>25 concerning any loan that was given by</p>	<p style="text-align: right;">Page 85</p> <p>1 N. Dondero</p> <p>2 Highland to any of its officers or</p> <p>3 employees that was forgiven in whole or in</p> <p>4 part?</p> <p>5 A. I don't know.</p> <p>6 Q. Did you or Dugaboy ever ask</p> <p>7 anybody prior to the petition date whether</p> <p>8 Highland had ever forgiven any loan that it</p> <p>9 made to any officer or employee?</p> <p>10 A. I don't think so.</p> <p>11 Q. Did you or Dugaboy make any</p> <p>12 effort at any time prior to the petition</p> <p>13 date to determine whether Highland had ever</p> <p>14 forgiven in whole or in part any loan that</p> <p>15 it made to any of its officers or</p> <p>16 employees?</p> <p>17 A. Did I make any inquiries? Is</p> <p>18 that what you're asking?</p> <p>19 Q. Did you make any effort to try to</p> <p>20 answer -- to try to figure that out?</p> <p>21 A. To determine one way or the</p> <p>22 other?</p> <p>23 Q. Correct.</p> <p>24 A. Not that I recall, no.</p> <p>25 Q. Did anybody ever tell you --</p>

<p style="text-align: right;">Page 86</p> <p>1 N. Dondero</p> <p>2 withdrawn.</p> <p>3 Did anybody ever give you or</p> <p>4 Dugaboy any information concerning any loan</p> <p>5 that Highland ever made to any of its</p> <p>6 employees or officers that was forgiven in</p> <p>7 whole or in part?</p> <p>8 A. I was aware that that was a</p> <p>9 common practice at Highland.</p> <p>10 Q. Okay. And how did you become</p> <p>11 aware of that common practice?</p> <p>12 A. In conversations with Jim.</p> <p>13 Q. Was there any other source of</p> <p>14 information concerning that common practice</p> <p>15 that he described for you – withdrawn.</p> <p>16 Did you have any other source of</p> <p>17 information concerning the common practice</p> <p>18 that you just mentioned?</p> <p>19 A. Did I have any –</p> <p>20 Q. Any other source – yeah.</p> <p>21 Did you have any other source of</p> <p>22 information other than your brother</p> <p>23 concerning the common practice that you</p> <p>24 just described?</p> <p>25 A. I'm not sure if I spoke to other</p>	<p style="text-align: right;">Page 87</p> <p>1 N. Dondero</p> <p>2 people in addition to Jim. I don't know.</p> <p>3 Q. Can you identify anybody that you</p> <p>4 recall speaking to concerning the practice</p> <p>5 that your brother told you that Highland</p> <p>6 had of forgiving loans to employees and</p> <p>7 officers?</p> <p>8 A. I don't remember who it was at</p> <p>9 Highland that I have spoken to about that</p> <p>10 or overheard a conversation.</p> <p>11 Q. Do you recall when the</p> <p>12 conversation took place?</p> <p>13 A. No, I don't.</p> <p>14 Q. Do you recall where the</p> <p>15 conversation took place?</p> <p>16 A. No, no, I don't. I believe it</p> <p>17 was a phone conversation.</p> <p>18 Q. Can you identify any person who</p> <p>19 participated in the phone conversation?</p> <p>20 A. Jim was one of the parties.</p> <p>21 Q. Do you recall anybody else?</p> <p>22 A. I do not.</p> <p>23 Q. Do you recall if the conversation</p> <p>24 took place before or after the petition</p> <p>25 date?</p>
<p style="text-align: right;">Page 88</p> <p>1 N. Dondero</p> <p>2 A. I don't know.</p> <p>3 Q. So it might have happened before;</p> <p>4 it might have happened after.</p> <p>5 Is that fair?</p> <p>6 A. Correct.</p> <p>7 Q. Do you remember the substance of</p> <p>8 the conversation at all?</p> <p>9 A. Not in detail.</p> <p>10 Q. Can you describe for me</p> <p>11 everything you recall about the</p> <p>12 conversation you have in your mind</p> <p>13 concerning the practice that Highland had</p> <p>14 of forgiving loans to officers and</p> <p>15 employees?</p> <p>16 A. I am aware that it was common</p> <p>17 practice, or at least I believed it was</p> <p>18 common practice at Highland.</p> <p>19 Q. Do you have any other information</p> <p>20 that you can share with me that you learned</p> <p>21 concerning the practice other than the fact</p> <p>22 that it existed?</p> <p>23 A. Not at this time.</p> <p>24 Q. Can you identify a single officer</p> <p>25 or employee who had a loan forgiven?</p>	<p style="text-align: right;">Page 89</p> <p>1 N. Dondero</p> <p>2 A. Not off the top of my head, no.</p> <p>3 Q. Did you or Dugaboy ever know the</p> <p>4 identity of any officer or employee of</p> <p>5 Highland who had a loan forgiven?</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 A. Again, John, not off the top of</p> <p>9 my head.</p> <p>10 Q. Did you ever see anything in</p> <p>11 writing that concerned or related to the</p> <p>12 practice that your brother described for</p> <p>13 you?</p> <p>14 A. Not that I remember, no.</p> <p>15 Q. Did you ever ask to see any</p> <p>16 documents that concerned or related to the</p> <p>17 practice that your brother described for</p> <p>18 you?</p> <p>19 A. Again, I don't recall, John.</p> <p>20 Q. Did Dugaboy ever ask for</p> <p>21 information concerning Highland's practice</p> <p>22 of forgiving loans?</p> <p>23 A. No, I don't believe so.</p> <p>24 Q. Did you or Highland ever know</p> <p>25 about the number of loans that Highland</p>

<p style="text-align: right;">Page 90</p> <p>1 N. Dondero</p> <p>2 made to employees or officers that Highland</p> <p>3 forgave?</p> <p>4 A. I'm sorry, did me or Highland</p> <p>5 know?</p> <p>6 Q. I apologize. If that's what I</p> <p>7 said, I'm mistaken. Thank you.</p> <p>8 Did you or Dugaboy – did you or</p> <p>9 Dugaboy ever know how many loans were</p> <p>10 forgiven?</p> <p>11 A. A specific number, no.</p> <p>12 Q. Did you or Dugaboy know – ever</p> <p>13 know the amount, the face amount of the</p> <p>14 loans that were forgiven?</p> <p>15 A. No, not that I recall.</p> <p>16 Q. Did you or Dugaboy ever know the</p> <p>17 year in which Highland ever forgave any</p> <p>18 loan to any officer or employee?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Okay. Do you know Mark Okada?</p> <p>21 A. I do.</p> <p>22 Q. Have you ever met him?</p> <p>23 A. I have.</p> <p>24 Q. Okay. Do you know whether</p> <p>25 Highland ever gave a loan to Mr. Okada that</p>	<p style="text-align: right;">Page 91</p> <p>1 N. Dondero</p> <p>2 was the subject of a promissory note?</p> <p>3 A. Specifically, no.</p> <p>4 Q. Did you ever ask anybody whether</p> <p>5 Highland had ever made a loan to Mr. Okada</p> <p>6 that was backed by a promissory note?</p> <p>7 A. I never asked.</p> <p>8 Q. Do you or Dugaboy know whether</p> <p>9 Highland ever forgave any loan that was</p> <p>10 ever made to Mr. Okada?</p> <p>11 A. I am not aware.</p> <p>12 Q. Did you or Dugaboy ever ask</p> <p>13 anybody whether Highland had ever made a</p> <p>14 loan to Mr. Okada that Highland forgave?</p> <p>15 A. No.</p> <p>16 Q. Did you or Dugaboy ever make any</p> <p>17 effort to ascertain whether Highland had</p> <p>18 ever forgiven any loan that it had made to</p> <p>19 Mr. Okada?</p> <p>20 A. I'm sorry. The beginning part of</p> <p>21 that, John? Did I –</p> <p>22 Q. Sure.</p> <p>23 Did you or Dugaboy ever make any</p> <p>24 effort to figure out if Highland had ever</p> <p>25 forgiven any loan that it had made to</p>
<p style="text-align: right;">Page 92</p> <p>1 N. Dondero</p> <p>2 Mr. Okada?</p> <p>3 A. No, sir.</p> <p>4 Q. You're aware that Highland loaned</p> <p>5 money to your brother, correct?</p> <p>6 A. Correct.</p> <p>7 Q. Do you know how many loans</p> <p>8 Highland made to your brother?</p> <p>9 A. Over what period of time, John?</p> <p>10 Q. From the time the company was</p> <p>11 formed.</p> <p>12 A. Okay. There's more – I'm not</p> <p>13 sure how to answer that, John.</p> <p>14 Q. Okay. That's fair.</p> <p>15 A. Can you be more specific with the</p> <p>16 time frame, please?</p> <p>17 Q. You bet.</p> <p>18 Let's take it for the ten years</p> <p>19 prior to the petition date. So let's go</p> <p>20 back to 2009.</p> <p>21 From 2009 to 2019 –</p> <p>22 A. Okay.</p> <p>23 Q. – do you know how many loans</p> <p>24 Highland made to your brother?</p> <p>25 A. To just Jim or to Jim and his</p>	<p style="text-align: right;">Page 93</p> <p>1 N. Dondero</p> <p>2 entities?</p> <p>3 Q. Just to Jim.</p> <p>4 A. I don't know a specific number,</p> <p>5 no.</p> <p>6 Q. Did you or Dugaboy ever ask</p> <p>7 anybody how many loans Highland made to Jim</p> <p>8 in the ten-year period prior to the</p> <p>9 petition date?</p> <p>10 A. No. We never asked.</p> <p>11 Q. Did you or Dugaboy ever ask</p> <p>12 anybody how many loans Highland made to Jim</p> <p>13 during any time period?</p> <p>14 A. No, I don't believe so.</p> <p>15 Q. Did you or Dugaboy ever make any</p> <p>16 effort to try to ascertain the number of</p> <p>17 loans that Highland made to your brother</p> <p>18 during any particular time period?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Do you know if your brother ever</p> <p>21 paid Highland back the principal amount</p> <p>22 due, plus interest under any loan that he</p> <p>23 had obtained from Highland?</p> <p>24 A. In its entirety?</p> <p>25 Q. Yes.</p>

<p style="text-align: right;">Page 94</p> <p>1 N. Dondero</p> <p>2 A. Or a portion?</p> <p>3 What are you speaking of?</p> <p>4 Q. Let's start with the entirety,</p> <p>5 and I'll ask the question again.</p> <p>6 Are you and Dugaboy aware of any</p> <p>7 loan that your brother obtained from</p> <p>8 Highland that he paid back in full, plus</p> <p>9 interest?</p> <p>10 A. I am not sure.</p> <p>11 Q. Did you or Dugaboy ever ask</p> <p>12 anybody whether your brother had ever</p> <p>13 obtained a loan from Highland that he paid</p> <p>14 back in full, plus interest?</p> <p>15 A. I don't think so.</p> <p>16 Q. Did you or Dugaboy ever make any</p> <p>17 effort prior to the petition date to</p> <p>18 determine whether or not Highland had –</p> <p>19 withdrawn.</p> <p>20 Did you and Dugaboy make any</p> <p>21 effort prior to the petition date to</p> <p>22 determine whether your brother had ever</p> <p>23 paid back all principal and interest due on</p> <p>24 any loan that he had obtained from</p> <p>25 Highland?</p>	<p style="text-align: right;">Page 95</p> <p>1 N. Dondero</p> <p>2 A. Not that I recall, John.</p> <p>3 Q. Prior to the petition date, did</p> <p>4 you or Dugaboy ever see any promissory note</p> <p>5 that your brother signed?</p> <p>6 A. I'm not sure. I don't know.</p> <p>7 Q. Prior to the petition date, did</p> <p>8 you or Dugaboy ever ask anybody to see any</p> <p>9 promissory note that your brother had</p> <p>10 signed in favor of Highland?</p> <p>11 A. I don't believe we asked.</p> <p>12 Q. Prior to the petition date, did</p> <p>13 you or Dugaboy ever make any effort to try</p> <p>14 to obtain any promissory note that your</p> <p>15 brother signed in favor of Highland?</p> <p>16 A. No, I don't think so.</p> <p>17 Q. Do you know how many promissory</p> <p>18 notes your brother signed in favor of</p> <p>19 Highland?</p> <p>20 A. Totally? No.</p> <p>21 Q. Okay. I am going to ask similar</p> <p>22 questions now regarding the corporate</p> <p>23 entities.</p> <p>24 Do you understand that Highland</p> <p>25 has what are referred to as affiliates?</p>
<p style="text-align: right;">Page 96</p> <p>1 N. Dondero</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And do you have an</p> <p>4 understanding of the term "affiliates" as</p> <p>5 it relates to Highland?</p> <p>6 A. Yes.</p> <p>7 Q. What's your understanding of the</p> <p>8 term "affiliates" as it relates to</p> <p>9 Highland?</p> <p>10 A. Companies that are associated</p> <p>11 with Highland.</p> <p>12 Q. And what does it mean to be</p> <p>13 associated with Highland?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 MR. MORRIS: Withdrawn.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. What do you mean when you say</p> <p>19 that affiliated companies are those that</p> <p>20 are associated with Highland?</p> <p>21 A. They're under the Highland</p> <p>22 umbrella.</p> <p>23 Q. Is it your understanding that</p> <p>24 affiliated companies are controlled by your</p> <p>25 brother?</p>	<p style="text-align: right;">Page 97</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. I'm sorry, John?</p> <p>5 MS. DEITSCH-PEREZ: There's some</p> <p>6 noise. We can hear somebody talking.</p> <p>7 Someone probably needs to mute.</p> <p>8 MR. MORRIS: Give me one second.</p> <p>9 It might be me. We'll see.</p> <p>10 I apologize for that if it was me</p> <p>11 anyway.</p> <p>12 Can I have last question read</p> <p>13 back please.</p> <p>14 THE REPORTER: Sure.</p> <p>15 (Question was read back as</p> <p>16 follows:</p> <p>17 "QUESTION: Is it your</p> <p>18 understanding that affiliated companies</p> <p>19 are controlled by your brother?")</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And are you aware – with</p> <p>22 that understanding of the term if</p> <p>23 "affiliates," are you aware that from time</p> <p>24 to time, Highland provided loans to certain</p> <p>25 of its affiliates?</p>

<p style="text-align: right;">Page 98</p> <p>1 N. Dondero</p> <p>2 A. I'm not sure. Of Highland loans?</p> <p>3 Okay. I'm not sure, John.</p> <p>4 Q. Prior to the petition date, did</p> <p>5 you or Dugaboy know whether Highland ever</p> <p>6 made a loan to an affiliate, as you've</p> <p>7 defined it?</p> <p>8 A. Yes, there were loans made.</p> <p>9 Q. Okay. And how did you learn that</p> <p>10 there were loans made by Highland to its</p> <p>11 affiliates?</p> <p>12 A. Jim and I had discussed the loans</p> <p>13 that were made.</p> <p>14 Are we talking about certain</p> <p>15 ones, John?</p> <p>16 Q. I'm just talking generally at the</p> <p>17 moment.</p> <p>18 How did you learn whatever</p> <p>19 information you have, and we'll get into</p> <p>20 the details, but how did you learn that</p> <p>21 Highland made loans to affiliates?</p> <p>22 A. From Jim.</p> <p>23 Q. Okay. Did you have any source of</p> <p>24 information other than your brother on the</p> <p>25 question of whether Highland made loans to</p>	<p style="text-align: right;">Page 99</p> <p>1 N. Dondero</p> <p>2 affiliates?</p> <p>3 A. Not that I'm aware of.</p> <p>4 Q. Were you and Dugaboy generally</p> <p>5 aware that when Highland made loans to its</p> <p>6 affiliates, the affiliates gave Highland</p> <p>7 promissory notes in return?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And how did you learn</p> <p>10 that?</p> <p>11 A. In conversation.</p> <p>12 Q. And would those be conversations</p> <p>13 that you had with Jim?</p> <p>14 A. Correct.</p> <p>15 Q. Did you have conversations with</p> <p>16 anybody else on the topic of whether or not</p> <p>17 the affiliates gave Highland promissory</p> <p>18 notes in exchange for loans?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Prior to the petition date, did</p> <p>21 you or Dugaboy ever see a promissory note</p> <p>22 that was signed on behalf of any affiliate?</p> <p>23 A. I don't recall.</p> <p>24 Q. Prior to the petition date, did</p> <p>25 you or Dugaboy ever ask anybody to see any</p>
<p style="text-align: right;">Page 100</p> <p>1 N. Dondero</p> <p>2 promissory note that was signed in favor of</p> <p>3 Highland by one of its affiliates?</p> <p>4 A. Not that I recall, John.</p> <p>5 Q. Prior to the petition date, did</p> <p>6 you or Dugaboy make any effort to try to</p> <p>7 obtain any promissory note that was</p> <p>8 executed by a Highland affiliate in favor</p> <p>9 of Highland?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Do you know if Highland ever</p> <p>12 forgave any obligations under any</p> <p>13 promissory note that was signed on behalf</p> <p>14 of any affiliate?</p> <p>15 A. I have no idea.</p> <p>16 Q. Did you or Dugaboy ever ask</p> <p>17 anybody whether Highland had ever forgiven</p> <p>18 any loan that was given to an affiliate?</p> <p>19 A. Did we – I'm sorry, John, can</p> <p>20 you repeat the question, please?</p> <p>21 Q. Yes.</p> <p>22 Did you or Dugaboy ever ask</p> <p>23 anybody prior to the petition date whether</p> <p>24 Highland had ever forgiven in whole or in</p> <p>25 part any loan that it made to an affiliate?</p>	<p style="text-align: right;">Page 101</p> <p>1 N. Dondero</p> <p>2 A. No, because it was my assumption</p> <p>3 that that was common practice.</p> <p>4 Q. Okay. And what was that</p> <p>5 assumption based on?</p> <p>6 A. Conversations that I either had</p> <p>7 with Jim or overheard.</p> <p>8 Q. Okay. Do you have anything to</p> <p>9 add about the practice that you haven't</p> <p>10 already testified to?</p> <p>11 Withdrawn.</p> <p>12 Does the practice that you're</p> <p>13 referring to, is that the same practice</p> <p>14 that you have identified earlier with</p> <p>15 respect to loans that were made to officers</p> <p>16 and employees?</p> <p>17 A. That's correct, John.</p> <p>18 Q. Okay. So did you have any source</p> <p>19 of information other than your brother that</p> <p>20 you can identify right now concerning the</p> <p>21 practice of forgiving loans to affiliates?</p> <p>22 A. Not at this time.</p> <p>23 Q. Can you identify any loan that</p> <p>24 Highland ever made to an affiliate that was</p> <p>25 forgiven?</p>

<p style="text-align: right;">Page 102</p> <p>1 N. Dondero</p> <p>2 A. Not that I recall.</p> <p>3 Q. Did you or Dugaboy ever ask</p> <p>4 anybody to identify any loan that it ever</p> <p>5 made to an affiliate that was forgiven in</p> <p>6 whole or in part?</p> <p>7 A. Can you restate that, John?</p> <p>8 Q. Sure.</p> <p>9 Did you or Dugaboy ever ask</p> <p>10 anybody to identify a loan that was made by</p> <p>11 Highland to an affiliate that was forgiven</p> <p>12 in whole or in part?</p> <p>13 A. Not that I remember.</p> <p>14 Q. Can you or Dugaboy identify today</p> <p>15 any affiliate that obtained a loan from</p> <p>16 Highland that Highland forgave?</p> <p>17 A. Not that I know of.</p> <p>18 Q. Did you or Dugaboy ever take any</p> <p>19 steps to confirm what your brother told you</p> <p>20 about the practice of forgiving loans?</p> <p>21 A. Did we take any steps?</p> <p>22 Q. Did you do anything?</p> <p>23 A. Not that I am aware of, no.</p> <p>24 Q. Did you ever see any document</p> <p>25 that concerned or related to the practice</p>	<p style="text-align: right;">Page 103</p> <p>1 N. Dondero</p> <p>2 your brother described for you whereby</p> <p>3 Highland forgave loans to affiliates?</p> <p>4 A. I do not recall, John, no.</p> <p>5 Q. Did you ever ask to see any</p> <p>6 documents that reflected the practice your</p> <p>7 brother described?</p> <p>8 A. I never asked.</p> <p>9 Q. Give me one second.</p> <p>10 Have you ever heard of an entity</p> <p>11 called Highland Capital Management Services</p> <p>12 Inc.?</p> <p>13 A. Yes.</p> <p>14 Q. Can we refer to that entity as</p> <p>15 HCMS?</p> <p>16 A. Okay.</p> <p>17 Q. Is HCMS an affiliate –</p> <p>18 withdrawn.</p> <p>19 Did you and Dugaboy understand</p> <p>20 that HCMS was an affiliate of Highland's</p> <p>21 prior to the petition date?</p> <p>22 A. Yes.</p> <p>23 Q. And how did you come to</p> <p>24 understand that HCMS was an affiliate of</p> <p>25 Highland prior to the petition date?</p>
<p style="text-align: right;">Page 104</p> <p>1 N. Dondero</p> <p>2 A. Because it's another one of Jim's</p> <p>3 companies.</p> <p>4 Q. And how did you learn that that</p> <p>5 was another one of Jim's companies?</p> <p>6 A. I don't remember how I learned</p> <p>7 it. It's under the Highland umbrella.</p> <p>8 Q. And when you say that it's one of</p> <p>9 "Jim's companies," what do you mean by</p> <p>10 that?</p> <p>11 A. The beneficial owner.</p> <p>12 Q. And how did you learn that your</p> <p>13 brother was the beneficial owner of HCMS?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form. That's not what she said. She</p> <p>16 said he is a beneficiary owner –</p> <p>17 MR. MORRIS: You can object to</p> <p>18 the question. I appreciate it.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. And you can answer it.</p> <p>21 MS. DEITSCH-PEREZ: Don't</p> <p>22 misstate what she said, please.</p> <p>23 MR. MORRIS: All you do is get to</p> <p>24 object to the question, please. Don't</p> <p>25 coach the witness.</p>	<p style="text-align: right;">Page 105</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: I'm not</p> <p>3 coaching the witness.</p> <p>4 You want to have the court</p> <p>5 reporter read it back.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Can you please answer my</p> <p>8 question, please?</p> <p>9 A. How did I learn that Jim was a</p> <p>10 beneficial owner –</p> <p>11 Q. Sure.</p> <p>12 A. – of the company?</p> <p>13 I would assume from Jim.</p> <p>14 Q. Okay. Do you have any reason to</p> <p>15 believe your source of information was</p> <p>16 anybody other than Jim?</p> <p>17 A. I don't know, John.</p> <p>18 Q. Okay. Do you know the nature of</p> <p>19 HCMS's business?</p> <p>20 A. No.</p> <p>21 Q. Did you or Dugaboy ever ask</p> <p>22 anybody what the nature of HCMS's business</p> <p>23 was?</p> <p>24 A. No, not that I recall.</p> <p>25 Q. Did you or Dugaboy ever make any</p>

<p style="text-align: right;">Page 106</p> <p>1 N. Dondero</p> <p>2 effort to determine what HCMS's business</p> <p>3 was?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Did you or Dugaboy ever know –</p> <p>6 withdrawn.</p> <p>7 Did you or Dugaboy ever have any</p> <p>8 information concerning HCMS's financial</p> <p>9 condition?</p> <p>10 A. No, not that I'm aware of.</p> <p>11 Q. Did you or Dugaboy ever ask</p> <p>12 anybody for information concerning HCMS's</p> <p>13 financial condition?</p> <p>14 A. No.</p> <p>15 Q. Did you or Dugaboy ever make any</p> <p>16 independent effort to try to determine what</p> <p>17 HCMS's financial condition was?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Do you or Dugaboy know whether</p> <p>20 any agreements exist between HCMS and</p> <p>21 Highland other than any promissory notes?</p> <p>22 A. I don't know.</p> <p>23 Q. Did you or Dugaboy ever ask</p> <p>24 anybody whether any agreements existed</p> <p>25 between Highland and HCMS other than</p>	<p style="text-align: right;">Page 107</p> <p>1 N. Dondero</p> <p>2 promissory notes?</p> <p>3 A. I don't know. No, I don't</p> <p>4 believe so.</p> <p>5 Q. I appreciate your patience. I</p> <p>6 do.</p> <p>7 A. That's okay.</p> <p>8 Q. Did you or Dugaboy ever make any</p> <p>9 effort to try to learn whether any</p> <p>10 agreements existed between Highland and</p> <p>11 HCMS other than promissory notes?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Did you or Dugaboy know prior to</p> <p>14 the petition date whether Highland ever</p> <p>15 provided any services to HCMS?</p> <p>16 A. I don't know.</p> <p>17 Q. Did you or Dugaboy ever ask</p> <p>18 anybody prior to the petition date whether</p> <p>19 Highland ever provided any services to</p> <p>20 HCMS?</p> <p>21 A. I don't believe it was asked.</p> <p>22 Q. Did you or Dugaboy ever made any</p> <p>23 effort prior to the petition date to learn</p> <p>24 whether Highland provided any services to</p> <p>25 HCMS?</p>
<p style="text-align: right;">Page 108</p> <p>1 N. Dondero</p> <p>2 A. Not that I am aware of, John.</p> <p>3 Q. Do you know if HCMS – withdrawn.</p> <p>4 Did you or Dug – withdrawn.</p> <p>5 Did you or Dugaboy know prior to</p> <p>6 the petition date whether HCMS ever</p> <p>7 rendered any services to Highland?</p> <p>8 A. I wouldn't –</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. I wouldn't know.</p> <p>12 MR. MORRIS: Can I have the</p> <p>13 question read back?</p> <p>14 THE REPORTER: Sure.</p> <p>15 (Question was read back as</p> <p>16 follows:</p> <p>17 "QUESTION: Did you or Dugaboy</p> <p>18 know prior to the petition date whether</p> <p>19 HCMS ever rendered any services to</p> <p>20 Highland?"</p> <p>21 "ANSWER: I wouldn't know.")</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Did you or Dugaboy ever ask</p> <p>24 anybody prior to the petition date whether</p> <p>25 HCMS ever rendered any services to</p>	<p style="text-align: right;">Page 109</p> <p>1 N. Dondero</p> <p>2 Highland?</p> <p>3 A. I don't believe so, John.</p> <p>4 Q. Did you or Dugaboy make any</p> <p>5 effort prior to the petition date to</p> <p>6 determine whether HCMS ever rendered any</p> <p>7 services to Highland?</p> <p>8 A. I don't think so.</p> <p>9 Q. Do you know if Highland ever</p> <p>10 loaned any money to HCMS?</p> <p>11 MS. DEITSCH-PEREZ: Asked and</p> <p>12 answered.</p> <p>13 MR. MORRIS: You can answer.</p> <p>14 A. Oh, answer it again?</p> <p>15 Q. If I asked it, I apologize, but</p> <p>16 go ahead, yeah.</p> <p>17 MS. DEITSCH-PEREZ: I thought you</p> <p>18 asked about promissory notes. If I'm</p> <p>19 wrong, I apologize.</p> <p>20 MR. MORRIS: That's okay.</p> <p>21 A. Yeah, I'm sorry. Okay. So not</p> <p>22 including any notes?</p> <p>23 Q. Yeah, let me ask a different</p> <p>24 question. I'm not asking about promissory</p> <p>25 notes.</p>

<p style="text-align: right;">Page 110</p> <p>1 N. Dondero</p> <p>2 A. Okay.</p> <p>3 Q. I'm asking whether prior to the</p> <p>4 petition date, you or Dugaboy were aware of</p> <p>5 any loans that Highland made to HCMS?</p> <p>6 A. Okay. I'm aware of the ones that</p> <p>7 are in question.</p> <p>8 Are you speaking of others?</p> <p>9 Q. I am asking broadly at this time.</p> <p>10 Are you generally aware that</p> <p>11 Highland loaned –</p> <p>12 A. Yes.</p> <p>13 Q. – money to HCMS prior to the</p> <p>14 petition date?</p> <p>15 A. Yes, I am generally aware.</p> <p>16 Q. Okay. Did you and Dugaboy know</p> <p>17 how many loans Highland made to HCMS prior</p> <p>18 to the petition date?</p> <p>19 A. Yes, I believe.</p> <p>20 Q. And how many loans did Highland</p> <p>21 make to HCMS prior to the petition date, to</p> <p>22 the best of your knowledge?</p> <p>23 A. At least five.</p> <p>24 Q. And are those the loans that are</p> <p>25 reflected in the five promissory notes that</p>	<p style="text-align: right;">Page 111</p> <p>1 N. Dondero</p> <p>2 are the subject of the lawsuit against</p> <p>3 HCMS?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. Are you aware of any loans</p> <p>6 that Highland ever made to HCMS that are</p> <p>7 not subject to the lawsuit?</p> <p>8 A. I'm not – I'm not aware, John.</p> <p>9 Q. Did you ever ask – withdrawn.</p> <p>10 Did you or Dugaboy ask at any</p> <p>11 time whether Highland had ever made any</p> <p>12 loans to HCMS that weren't reflected in the</p> <p>13 promissory notes that are the subject of</p> <p>14 the lawsuits?</p> <p>15 A. I don't believe we ever asked.</p> <p>16 Q. Do you know who authorized</p> <p>17 Highland to make the loans to HCMS that</p> <p>18 you're aware of?</p> <p>19 A. Okay. I'm sorry, once again,</p> <p>20 John, the question?</p> <p>21 Q. Did you or Dugaboy know prior to</p> <p>22 the petition date who authorized Highland</p> <p>23 to make the loans to HCMS that are the</p> <p>24 subject of the promissory notes that you</p> <p>25 referred to?</p>
<p style="text-align: right;">Page 112</p> <p>1 N. Dondero</p> <p>2 A. Who authorized?</p> <p>3 Q. Yes.</p> <p>4 A. I don't know.</p> <p>5 Q. Do you recall if you or Dugaboy</p> <p>6 asked anybody at any time prior to the</p> <p>7 petition date who authorized Highland to</p> <p>8 make the loans to HCMS?</p> <p>9 A. I don't believe that was asked.</p> <p>10 Q. Okay. Do you have any</p> <p>11 information as to whether HCMS intended to</p> <p>12 pay back each of the loans that are the</p> <p>13 subject of the promissory notes at the time</p> <p>14 the loans were given to them by Highland?</p> <p>15 MS. DEITSCH-PEREZ: Objection.</p> <p>16 No foundation.</p> <p>17 A. John, can you just say the</p> <p>18 question again, please?</p> <p>19 Q. Sure.</p> <p>20 Did you or Dugaboy have any</p> <p>21 information prior to the petition date as</p> <p>22 to whether HCMS intended to repay the loans</p> <p>23 that are the subject of the promissory</p> <p>24 notes that you identified?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 N. Dondero</p> <p>2 Q. Okay. Did you or Dugaboy ever</p> <p>3 ask anybody prior to the petition date</p> <p>4 whether HCMS had intended to repay the</p> <p>5 loans at the time and times that it</p> <p>6 obtained them from Highland?</p> <p>7 A. Okay, John, can you ask that</p> <p>8 again?</p> <p>9 Q. Sure.</p> <p>10 Did you or Dugaboy ever ask</p> <p>11 anybody whether HCMS intended to repay the</p> <p>12 loans at the time HCMS obtained them from</p> <p>13 Highland?</p> <p>14 A. I don't believe we asked their</p> <p>15 intent.</p> <p>16 Q. Okay.</p> <p>17 MS. DEITSCH-PEREZ: Whenever –</p> <p>18 we've been going about another hour.</p> <p>19 So whenever is good for you, John.</p> <p>20 MR. MORRIS: Okay. I'm going to</p> <p>21 finish up this section here.</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Do you or Dugaboy have any</p> <p>24 knowledge as to why Highland made the loans</p> <p>25 to HCMS?</p>

<p style="text-align: right;">Page 114</p> <p>1 N. Dondero</p> <p>2 A. Only assumptions.</p> <p>3 Q. Okay. I don't want assumptions.</p> <p>4 I want information.</p> <p>5 A. Then I don't -- then I don't</p> <p>6 know.</p> <p>7 Q. Okay. Do you or Dugaboy ever ask</p> <p>8 anybody why Highland made the loans to HCMS</p> <p>9 that are the subject of the promissory</p> <p>10 notes you referred to?</p> <p>11 A. No.</p> <p>12 Q. Did you or Dugaboy ever make any</p> <p>13 effort to try to determine why Highland</p> <p>14 made the loans to HCMS?</p> <p>15 A. No, not that I remember.</p> <p>16 Q. Did you or Dugaboy know prior to</p> <p>17 the petition date what HCMS did with the</p> <p>18 proceeds of the loans that it obtained from</p> <p>19 Highland?</p> <p>20 A. I don't know, John.</p> <p>21 Q. Did you or Dugaboy ever ask</p> <p>22 anybody at any time prior to the petition</p> <p>23 date what HCMS did with the proceeds of the</p> <p>24 loans that it obtained from Highland?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 115</p> <p>1 N. Dondero</p> <p>2 Q. Did you or Dugaboy ever make any</p> <p>3 effort to determine what HCMS did with the</p> <p>4 proceeds of the loans that it obtained from</p> <p>5 Highland?</p> <p>6 A. No.</p> <p>7 Q. You're aware that HCMS issued</p> <p>8 promissory notes in favor of Highland in</p> <p>9 exchange for the loans, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Prior to the petition date, did</p> <p>12 you ever see any promissory note that was</p> <p>13 issued by HCMS in favor of Highland?</p> <p>14 A. Prior to October of '19?</p> <p>15 Q. Correct.</p> <p>16 A. I don't recall.</p> <p>17 Q. Do you recall whether you or</p> <p>18 Dugaboy asked at any time prior to the</p> <p>19 petition date to see promissory notes that</p> <p>20 were executed on behalf of HCMS in favor of</p> <p>21 Highland?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you recall whether you or</p> <p>24 Dugaboy made any effort at any time prior</p> <p>25 to the petition date to obtain copies of</p>
<p style="text-align: right;">Page 116</p> <p>1 N. Dondero</p> <p>2 promissory notes that were issued by HCMS</p> <p>3 in favor of Highland?</p> <p>4 A. I don't believe so.</p> <p>5 Q. Prior to the petition date, were</p> <p>6 you and Dugaboy aware of the terms of the</p> <p>7 promissory notes that HCMS issued in favor</p> <p>8 of Highland?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. Can you be more specific? Just</p> <p>12 the terms of the loan, John?</p> <p>13 Q. Yes.</p> <p>14 Did you and Dugaboy know the</p> <p>15 terms of the loans that were reflected in</p> <p>16 the promissory notes?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Okay. And who gave you the</p> <p>19 information regarding the terms of the</p> <p>20 loans that HCMS obtained from Highland?</p> <p>21 A. Jim.</p> <p>22 Q. Do you remember anything about</p> <p>23 the terms of the loans that HCMS obtained</p> <p>24 from Highland?</p> <p>25 A. Regarding -- you mean the term?</p>	<p style="text-align: right;">Page 117</p> <p>1 N. Dondero</p> <p>2 There's 30-year. There's demand.</p> <p>3 Q. You tell me.</p> <p>4 You described five promissory</p> <p>5 notes, I think, that were executed by HCMS</p> <p>6 in favor of Highland, right?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. And I believe you</p> <p>9 testified that you didn't see those notes</p> <p>10 prior to the petition date, correct?</p> <p>11 A. Right. Well, yeah, I'm a little</p> <p>12 vague on the date; but, yes, I don't</p> <p>13 believe I saw them prior to -- so right,</p> <p>14 prior to the petition date, correct.</p> <p>15 Um-hmm.</p> <p>16 Q. But did you or Dugaboy --</p> <p>17 withdrawn.</p> <p>18 Did you and Dugaboy have an</p> <p>19 understanding of the terms of the notes</p> <p>20 prior to the petition date?</p> <p>21 A. Yes. From what I understand, my</p> <p>22 recollection is several of them were</p> <p>23 demand, and one was 30-year.</p> <p>24 Q. And do you have an understanding</p> <p>25 of what it means -- of what a demand notice</p>

<p>Page 118</p> <p>1 N. Dondero</p> <p>2 is?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 A. Payable upon demand.</p> <p>6 Q. Okay. So you knew prior to the</p> <p>7 petition date that certain of the notes</p> <p>8 issued by HCMS to Highland were demand</p> <p>9 notes; is that right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 MR. MORRIS: All right. I'm</p> <p>13 happy to take a break now. Hopefully</p> <p>14 it won't be as long as the last one.</p> <p>15 But we can go off the record.</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 12:00 p.m. We are going off the</p> <p>18 record.</p> <p>19 (Recess is taken.)</p> <p>20 (Patrick Daugherty not in</p> <p>21 attendance at this time.)</p> <p>22 THE VIDEOGRAPHER: The time is</p> <p>23 12:16. Back on the record.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Ms. Dondero, did you communicate</p>	<p>Page 119</p> <p>1 N. Dondero</p> <p>2 with anybody during your break regarding</p> <p>3 any aspect of your testimony?</p> <p>4 A. No, sir.</p> <p>5 Q. Okay. Have you ever heard of an</p> <p>6 entity called HCRE Partners LLC?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Do you understand that HCRE is an</p> <p>9 affiliate of Highland?</p> <p>10 A. I do.</p> <p>11 Q. Okay. And what was the -- what</p> <p>12 is the basis of your understanding that</p> <p>13 HCRE -- withdrawn. I should have put a</p> <p>14 time frame on this.</p> <p>15 Is it your understanding that</p> <p>16 HCRE was an affiliate of Highland prior to</p> <p>17 the petition date?</p> <p>18 A. Yes, sir.</p> <p>19 Q. And what is the basis for your</p> <p>20 understanding?</p> <p>21 A. They were under the Highland</p> <p>22 umbrella prior to October of '19.</p> <p>23 Q. And to the best of your</p> <p>24 knowledge, does HCRE fit the definition of</p> <p>25 affiliate that you provided earlier today?</p>
<p>Page 120</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Objection.</p> <p>3 A. Yes.</p> <p>4 Q. Do you know the nature of HCRE's</p> <p>5 business?</p> <p>6 A. I believe it's real estate.</p> <p>7 Q. Do you or Dugaboy have any</p> <p>8 information about the nature of HCRE's</p> <p>9 business other than it's real estate?</p> <p>10 A. No.</p> <p>11 Q. Did you or Dugaboy ever ask</p> <p>12 anybody what the nature of HCRE's business</p> <p>13 was?</p> <p>14 A. No.</p> <p>15 Q. Did you or Dugaboy ever make any</p> <p>16 effort to ascertain the nature of HCRE's</p> <p>17 business?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Did you or Dugaboy know whether</p> <p>20 HCRE had any agreements with Highland prior</p> <p>21 to the petition date?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 MR. MORRIS: Withdrawn.</p> <p>25 BY MR. MORRIS:</p>	<p>Page 121</p> <p>1 N. Dondero</p> <p>2 Q. Do you or Dugaboy know whether</p> <p>3 HCRE had any agreements with Highland prior</p> <p>4 to the petition date other than the</p> <p>5 promissory notes?</p> <p>6 A. Other than the promissory notes,</p> <p>7 no.</p> <p>8 Q. Did you or Dugaboy ever ask</p> <p>9 anybody at any time prior to the petition</p> <p>10 date whether HCRE had any agreements with</p> <p>11 Highland other than the promissory notes?</p> <p>12 A. No.</p> <p>13 Q. Did you or Dugaboy make any</p> <p>14 effort prior to the petition date to</p> <p>15 ascertain whether any agreements existed</p> <p>16 between Highland and HCRE other than the</p> <p>17 promissory notes?</p> <p>18 A. Not that I recall.</p> <p>19 Q. Do you know -- withdrawn.</p> <p>20 Did you or Dugaboy know prior to</p> <p>21 the petition date whether HCRE had ever</p> <p>22 rendered any services to Highland?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. I don't know.</p>

<p style="text-align: right;">Page 122</p> <p>1 N. Dondero</p> <p>2 Q. Did you or Dugaboy ever ask</p> <p>3 anybody prior to the petition date whether</p> <p>4 HCRE ever rendered any services to</p> <p>5 Highland?</p> <p>6 A. I don't believe so.</p> <p>7 Q. Did you or Dugaboy make any</p> <p>8 effort to ascertain prior to the petition</p> <p>9 date whether HCRE ever rendered any</p> <p>10 services to Highland?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. I'm sorry, John, can you repeat</p> <p>14 that, please, the question?</p> <p>15 Q. Did you or Dugaboy make any</p> <p>16 effort prior to the petition date to</p> <p>17 determine whether or not HCRE had ever</p> <p>18 provided any services to Highland?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I don't believe so.</p> <p>22 Q. Are you aware -- withdrawn.</p> <p>23 Did you or Dugaboy know prior to</p> <p>24 the petition date whether Highland had ever</p> <p>25 loaned any money to HCRE?</p>	<p style="text-align: right;">Page 123</p> <p>1 N. Dondero</p> <p>2 A. Yes.</p> <p>3 Q. And were the loans that you're</p> <p>4 aware of reflected in promissory notes?</p> <p>5 A. Correct.</p> <p>6 Q. And are those the promissory</p> <p>7 notes that are the subject of one of the</p> <p>8 litigations?</p> <p>9 A. Yes, sir.</p> <p>10 Q. Are you aware of any loans that</p> <p>11 Highland ever made to HCRE that are not the</p> <p>12 subject of one of the promissory notes in</p> <p>13 the lawsuits?</p> <p>14 A. I'm not aware of any.</p> <p>15 Q. Did you ever ask anybody whether</p> <p>16 Highland had ever made any loans to HCRE</p> <p>17 that were not reflected in the promissory</p> <p>18 notes that are the subject of the lawsuit?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Did you or Dugaboy know prior to</p> <p>21 the petition date who authorized Highland</p> <p>22 to make the loans to HCRE?</p> <p>23 MS. DEITSCH-PEREZ: Object to the</p> <p>24 form.</p> <p>25 A. Sorry, John, could you say the</p>
<p style="text-align: right;">Page 124</p> <p>1 N. Dondero</p> <p>2 question again, please?</p> <p>3 Q. Sure.</p> <p>4 Did you or Dugaboy know prior to</p> <p>5 the petition date who authorized Highland</p> <p>6 to make the loans to HCRE?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. I don't know.</p> <p>10 Q. Did you or Dugaboy ever ask</p> <p>11 anybody prior to the petition date who</p> <p>12 authorized Highland to make the loans to</p> <p>13 HCRE that are reflected in the promissory</p> <p>14 notes you referred to?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. No.</p> <p>18 Q. Did you or Dugaboy ever make any</p> <p>19 effort to ascertain who had authorized</p> <p>20 Highland to make the loans to HCRE that are</p> <p>21 reflected in the promissory notes you</p> <p>22 referred to?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Did you or Dugaboy have any</p> <p>25 information prior to the petition date as</p>	<p style="text-align: right;">Page 125</p> <p>1 N. Dondero</p> <p>2 to whether HCRE intended to repay the loans</p> <p>3 that are reflected in the promissory notes</p> <p>4 at the time the loans were made?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. John, I'm sorry, did I have any</p> <p>8 information if they intended to pay their</p> <p>9 loans?</p> <p>10 Q. At the time that they obtained</p> <p>11 the loans, yes.</p> <p>12 A. I have no reason to think they</p> <p>13 wouldn't pay their loans --</p> <p>14 Q. Okay.</p> <p>15 A. -- at the time they were made,</p> <p>16 correct.</p> <p>17 Q. You're not aware of any facts</p> <p>18 that suggest that HCRE didn't intend to</p> <p>19 repay the loans at the time they obtained</p> <p>20 them, right?</p> <p>21 A. Correct.</p> <p>22 Q. Prior to the petition date, did</p> <p>23 you or Dugaboy have any information in</p> <p>24 regard to the purpose of the loans that</p> <p>25 Highland gave to HCRE that were reflected</p>

<p style="text-align: right;">Page 126</p> <p>1 N. Dondero</p> <p>2 in the promissory notes?</p> <p>3 A. No, no idea.</p> <p>4 Q. Did you or Dugaboy attempt to</p> <p>5 obtain prior to the petition date any</p> <p>6 information concerning the purpose of the</p> <p>7 loans that were made by Highland to HCRE</p> <p>8 that were reflected in the promissory</p> <p>9 notes?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Did you or Dugaboy make any</p> <p>12 effort to ascertain the purpose of the</p> <p>13 loans that Highland made to HCRE?</p> <p>14 A. I don't believe so.</p> <p>15 Q. Did you or Dugaboy know prior to</p> <p>16 the petition date what HCRE did with the</p> <p>17 proceeds of the loans that it obtained from</p> <p>18 Highland in exchange for the promissory</p> <p>19 notes?</p> <p>20 A. We don't know.</p> <p>21 Q. Did you or Dugaboy ever ask</p> <p>22 anybody what HCRE did with the proceeds of</p> <p>23 the loans that it obtained from Highland in</p> <p>24 exchanged from the promissory notes?</p> <p>25 A. I don't believe we did.</p>	<p style="text-align: right;">Page 127</p> <p>1 N. Dondero</p> <p>2 Q. Did you or Dugaboy ever make any</p> <p>3 effort prior to the petition date to</p> <p>4 ascertain what HCRE did with the proceeds</p> <p>5 of the loans that it obtained from Highland</p> <p>6 that are reflected in the promissory notes?</p> <p>7 A. No.</p> <p>8 Q. Did you ever see – withdrawn.</p> <p>9 Did you or Dugaboy ever see prior</p> <p>10 to the petition – withdrawn. Not good.</p> <p>11 Too many questions.</p> <p>12 Did you or Dugaboy – withdrawn.</p> <p>13 Prior to the petition date, did</p> <p>14 you or Dugaboy ever see any promissory note</p> <p>15 that was executed by HCRE in favor of</p> <p>16 Highland?</p> <p>17 A. Not that I recall.</p> <p>18 Q. Prior to the petition date, did</p> <p>19 you or Dugaboy ever ask anybody to see any</p> <p>20 promissory note that was issued by HCRE in</p> <p>21 favor of Highland?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Prior to the petition date, did</p> <p>24 you or Dugaboy make any effort to try to</p> <p>25 obtain any promissory note that was ever</p>
<p style="text-align: right;">Page 128</p> <p>1 N. Dondero</p> <p>2 executed on behalf of HCRE in favor of</p> <p>3 Highland?</p> <p>4 A. No.</p> <p>5 Q. Prior to the petition date, did</p> <p>6 you and Dugaboy know the terms of any of</p> <p>7 the promissory notes that were issued by</p> <p>8 HCRE to Highland?</p> <p>9 A. Yes.</p> <p>10 Q. And how did you learn of the</p> <p>11 terms of the notes?</p> <p>12 A. From Jim.</p> <p>13 Q. And what did Jim tell you about</p> <p>14 the terms of the notes that were issued by</p> <p>15 HCRE to Highland?</p> <p>16 A. He mentioned the 30-year demand,</p> <p>17 the dates, the amounts.</p> <p>18 Q. Okay. Did you do – withdrawn.</p> <p>19 Did you or Dugaboy take any steps</p> <p>20 to try to corroborate what your brother</p> <p>21 told you concerning the terms of the notes</p> <p>22 that were issued by HCRE to Highland?</p> <p>23 A. Not that I recall.</p> <p>24 Q. Okay. Did you have any source of</p> <p>25 information for the terms of the notes</p>	<p style="text-align: right;">Page 129</p> <p>1 N. Dondero</p> <p>2 other than what your brother gave to you?</p> <p>3 A. I don't believe so.</p> <p>4 Q. Okay. Last one. NexPoint.</p> <p>5 Are you familiar with an entity</p> <p>6 called NexPoint Advisors LP?</p> <p>7 A. Yes.</p> <p>8 Q. Can we refer to that entity as</p> <p>9 NexPoint?</p> <p>10 A. Yes.</p> <p>11 Q. Is it your understanding that</p> <p>12 NexPoint was an affiliate of Highland's</p> <p>13 prior to the petition date, as you've used</p> <p>14 the term "affiliate"?</p> <p>15 A. Um-hmm. Yes.</p> <p>16 Q. And what's the basis for your</p> <p>17 understanding that prior to the petition</p> <p>18 date, NexPoint was an affiliate of</p> <p>19 Highland?</p> <p>20 A. Because Jim is a beneficial</p> <p>21 owner.</p> <p>22 Q. Is it your understanding that Jim</p> <p>23 is a beneficial owner of all of the</p> <p>24 defendants in each of the promissory note</p> <p>25 lawsuits?</p>

<p style="text-align: right;">Page 130</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 THE WITNESS: Can I answer?</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Yes.</p> <p>7 A. Yes, that is my belief, John.</p> <p>8 Q. Do you have any reason to believe</p> <p>9 Jim is not a beneficial owner of any</p> <p>10 corporate defendant in any of the lawsuits?</p> <p>11 A. No, I have no reason to believe</p> <p>12 that.</p> <p>13 Q. Prior to the petition date, did</p> <p>14 you or Dugaboy know the nature of</p> <p>15 NexPoint's business?</p> <p>16 A. I'm not really sure.</p> <p>17 Q. Do you know the nature of</p> <p>18 NexPoint's business today?</p> <p>19 A. I'm not sure.</p> <p>20 Q. Did you or Dugaboy ever ask</p> <p>21 anybody at any time what the nature of</p> <p>22 NexPoint's business was?</p> <p>23 A. I don't believe we did.</p> <p>24 Q. Did you or Dugaboy make any</p> <p>25 effort at any time to try to learn what the</p>	<p style="text-align: right;">Page 131</p> <p>1 N. Dondero</p> <p>2 nature of NexPoint's business was?</p> <p>3 A. Not that I recall.</p> <p>4 Q. Did you or Dugaboy know prior to</p> <p>5 the petition date whether NexPoint had any</p> <p>6 agreements with Highland?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 MR. MORRIS: I apologize. I'll</p> <p>10 make the same qualification.</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Did you and Dugaboy know prior to</p> <p>13 the petition date whether NexPoint and</p> <p>14 Highland had any agreements together other</p> <p>15 than the promissory notes?</p> <p>16 A. I'm not aware of any.</p> <p>17 Q. Okay. Did you or Dugaboy ask</p> <p>18 anybody at any time prior to the petition</p> <p>19 date whether any agreements existed between</p> <p>20 NexPoint and Highland other than the</p> <p>21 promissory notes?</p> <p>22 A. No, not that I'm aware of.</p> <p>23 Q. Did you or Dugaboy ever make any</p> <p>24 effort prior to the petition date to</p> <p>25 determine whether any agreements existed</p>
<p style="text-align: right;">Page 132</p> <p>1 N. Dondero</p> <p>2 between Highland and NexPoint other than</p> <p>3 the promissory notes?</p> <p>4 A. Not that I'm aware of.</p> <p>5 Q. Did you or Dugaboy know prior to</p> <p>6 the petition date whether NexPoint ever</p> <p>7 rendered any services to Highland?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. I don't know.</p> <p>11 Q. Did you or Dugaboy ever ask</p> <p>12 anybody at any time prior to the petition</p> <p>13 date whether NexPoint had ever rendered any</p> <p>14 services to Highland?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. I'm sorry, John. Can you repeat</p> <p>18 the question, please?</p> <p>19 Q. Sure.</p> <p>20 Did you and Dugaboy ask anybody</p> <p>21 at any time prior to the petition date</p> <p>22 whether NexPoint had ever rendered any</p> <p>23 services to Highland?</p> <p>24 A. Not that I'm aware of.</p> <p>25 Q. Did you and Dugaboy make any</p>	<p style="text-align: right;">Page 133</p> <p>1 N. Dondero</p> <p>2 effort prior to the petition date to</p> <p>3 determine whether or not NexPoint had ever</p> <p>4 rendered any services to Highland?</p> <p>5 A. Not that I'm aware of.</p> <p>6 Q. Are you aware that Highland made</p> <p>7 loans to NexPoint from time to time?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you ever see any -- do you</p> <p>10 know whether -- withdrawn.</p> <p>11 Prior to the petition date, were</p> <p>12 you and Dugaboy aware of any promissory</p> <p>13 notes that NexPoint had issued in favor of</p> <p>14 Highland?</p> <p>15 MS. DEITSCH-PEREZ: You mean</p> <p>16 other than what's at issue here? Just</p> <p>17 generally?</p> <p>18 MR. MORRIS: I'm starting with</p> <p>19 the general, yeah.</p> <p>20 A. I'm not aware of.</p> <p>21 Q. Are you aware of any promissory</p> <p>22 notes that NexPoint ever issued in favor of</p> <p>23 Highland?</p> <p>24 A. I'm not aware of any.</p> <p>25 Q. Do you know whether there are any</p>

<p style="text-align: right;">Page 134</p> <p>1 N. Dondero</p> <p>2 promissory notes that NexPoint issued that</p> <p>3 are the subject of this lawsuit?</p> <p>4 A. Yeah. John, can we back up a</p> <p>5 question?</p> <p>6 Q. Absolutely.</p> <p>7 A. Are you talking about the notes</p> <p>8 -- yeah, please.</p> <p>9 Are you talking about the notes,</p> <p>10 part of this proceeding or are you not?</p> <p>11 Q. I'm starting -- that's okay. Let</p> <p>12 me --</p> <p>13 A. Because obviously there is the</p> <p>14 NexPoint promissory note that we are</p> <p>15 talking about. When I answered the way I</p> <p>16 did, it was regarding others that I'm not</p> <p>17 aware of. I'm aware of the one obviously</p> <p>18 in this proceeding.</p> <p>19 Q. Okay. Thank you for the --</p> <p>20 A. Does that clarify?</p> <p>21 Q. It does. It is helpful. Thank</p> <p>22 you very much.</p> <p>23 Other than the one -- how many</p> <p>24 NexPoint notes do you understand are the</p> <p>25 subject of these litigations?</p>	<p style="text-align: right;">Page 135</p> <p>1 N. Dondero</p> <p>2 A. One.</p> <p>3 Q. Okay. Other than that one note,</p> <p>4 are you aware of any other promissory notes</p> <p>5 that NexPoint ever issued in favor of</p> <p>6 Highland?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. No, I'm not aware of any other.</p> <p>10 Q. Did you ask anybody -- withdrawn.</p> <p>11 Did you or Dugaboy ask anybody</p> <p>12 prior to the petition date whether NexPoint</p> <p>13 had issued any other promissory notes in</p> <p>14 favor of Highland other than the one that's</p> <p>15 the subject of the lawsuit?</p> <p>16 A. I don't believe so.</p> <p>17 Q. Did you or Dugaboy know prior to</p> <p>18 the petition date whether Highland had made</p> <p>19 any loan to NexPoint other than the loan</p> <p>20 that's reflected in the promissory note?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. I'm not aware of any.</p> <p>24 Q. Do you know how much the</p> <p>25 promissory -- do you know the principal</p>
<p style="text-align: right;">Page 136</p> <p>1 N. Dondero</p> <p>2 amount of -- withdrawn.</p> <p>3 Do you know the -- withdrawn.</p> <p>4 Did you and Dugaboy know the</p> <p>5 principal amount of NexPoint's promissory</p> <p>6 note prior to the petition date?</p> <p>7 A. Yes.</p> <p>8 Q. And how did you learn that?</p> <p>9 A. From Jim.</p> <p>10 Q. And what did Jim tell you that</p> <p>11 you can recall?</p> <p>12 A. 30 million thereabouts, in that</p> <p>13 neighborhood.</p> <p>14 Q. Do you know how many principal</p> <p>15 was owed as of the petition date?</p> <p>16 A. It's paid down by, oh, about a</p> <p>17 third, so it's somewhere 22, 23 million, I</p> <p>18 believe, in that ballpark.</p> <p>19 Q. Okay. And how did you learn that</p> <p>20 NexPoint had paid down the principal to</p> <p>21 that ballpark?</p> <p>22 A. I'm not sure.</p> <p>23 Q. Do you recall when you learned</p> <p>24 that NexPoint had paid down the principal</p> <p>25 to that ballpark?</p>	<p style="text-align: right;">Page 137</p> <p>1 N. Dondero</p> <p>2 A. Not exactly.</p> <p>3 Q. Okay. But you are aware that</p> <p>4 NexPoint paid approximately 7 to 8 million</p> <p>5 dollars in principal on the note that's the</p> <p>6 subject of the lawsuit, correct?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. Yes, it was somewhere in that</p> <p>10 ballpark. Sure.</p> <p>11 Q. Okay. Did you and Dugaboy know</p> <p>12 prior to the petition date who authorized</p> <p>13 Highland to make the loan to NexPoint?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. No, I don't know.</p> <p>17 Q. Did you or Dugaboy prior to the</p> <p>18 petition date ask anybody who had</p> <p>19 authorized Highland to make the \$30 million</p> <p>20 loan to NexPoint?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Did you or Dugaboy make any</p> <p>23 effort prior to the petition date to</p> <p>24 determine who had authorized Highland to</p> <p>25 make the \$30 million loan to NexPoint?</p>

<p style="text-align: right;">Page 138</p> <p>1 N. Dondero</p> <p>2 A. Not that I recall.</p> <p>3 Q. Do you have any reason to believe</p> <p>4 that NexPoint did not intend to pay all</p> <p>5 principal and interest due under the</p> <p>6 promissory note at the time that it</p> <p>7 obtained the loan from Highland?</p> <p>8 A. I have no reason to believe they</p> <p>9 weren't intending to pay.</p> <p>10 Q. Did you have any reason to</p> <p>11 believe -- withdrawn.</p> <p>12 Do you or Dugaboy have any reason</p> <p>13 to believe that Highland wasn't not</p> <p>14 expecting to get repaid all principal and</p> <p>15 interest due under the loan at the time it</p> <p>16 made the loan?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form. Actually, can somebody --</p> <p>19 Annette, could you read that</p> <p>20 back? There were a double negative or</p> <p>21 two.</p> <p>22 MR. MORRIS: Okay. Let me</p> <p>23 rephrase the question. That's fine.</p> <p>24 That's fine.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 139</p> <p>1 N. Dondero</p> <p>2 Q. Do you have any reason to believe</p> <p>3 that Highland didn't intend to get repaid</p> <p>4 all principal and interest due under the</p> <p>5 NexPoint note at the time it made the loan?</p> <p>6 A. I have no reason to believe that</p> <p>7 I didn't think that they weren't to get</p> <p>8 repaid at the time the notes were</p> <p>9 initiated.</p> <p>10 Q. Okay. Did you or Dugaboy know</p> <p>11 prior to the petition date what the purpose</p> <p>12 of the \$30 million loan was?</p> <p>13 A. I don't know.</p> <p>14 Q. Did you or Dugaboy ever ask</p> <p>15 anybody prior to the petition date what the</p> <p>16 purpose of the \$30 million loan was?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Did you or Dugaboy make any</p> <p>19 effort prior to the petition date to</p> <p>20 ascertain what the purpose of the \$30</p> <p>21 million loan was?</p> <p>22 A. I don't believe so.</p> <p>23 Q. Do you or Dugaboy -- withdrawn.</p> <p>24 Did you or Dugaboy know prior to</p> <p>25 the petition date what NexPoint did with</p>
<p style="text-align: right;">Page 140</p> <p>1 N. Dondero</p> <p>2 the proceeds of the loan?</p> <p>3 A. No, I don't know.</p> <p>4 Q. Did you or Dugaboy ever ask</p> <p>5 anybody prior to the petition date what</p> <p>6 NexPoint did with the proceeds of the loan?</p> <p>7 A. We did not.</p> <p>8 Q. Did you or Dugaboy know prior to</p> <p>9 the petition date that the \$30 million loan</p> <p>10 was a rollup of previously existing loans</p> <p>11 that Highland had made to NexPoint?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. I was not aware of that.</p> <p>15 Q. Are you aware today that the \$30</p> <p>16 million loan was a roll up of previously</p> <p>17 existing notes?</p> <p>18 A. I didn't, no.</p> <p>19 Q. Did you ever see the promissory</p> <p>20 note that was issued by NexPoint in favor</p> <p>21 of Highland that's the subject of one of</p> <p>22 these notes -- litigations?</p> <p>23 A. I don't remember. That was in</p> <p>24 '17, correct, John?</p> <p>25 Q. I'm just asking if -- let me ask</p>	<p style="text-align: right;">Page 141</p> <p>1 N. Dondero</p> <p>2 a different question.</p> <p>3 A. Yeah, I don't --</p> <p>4 Q. Okay. Did you or Dugaboy see the</p> <p>5 promissory note prior to the</p> <p>6 commencement -- no.</p> <p>7 Did you or Dugaboy prior to the</p> <p>8 petition date ever see the promissory note</p> <p>9 that NexPoint issued in favor of Highland</p> <p>10 in the principal amount of approximately</p> <p>11 \$30 million?</p> <p>12 A. I don't recall.</p> <p>13 Q. Do you recall if you or Dugaboy</p> <p>14 ever asked anybody prior to the petition</p> <p>15 date to see the \$30 million promissory note</p> <p>16 that NexPoint issued in favor of Highland?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Did you or Dugaboy make any</p> <p>19 effort prior to the petition date to obtain</p> <p>20 a copy of the \$30 million promissory note</p> <p>21 that NexPoint issued in favor of Highland?</p> <p>22 A. I don't recall.</p> <p>23 Q. Were you and Dugaboy aware at any</p> <p>24 time prior to the petition date of the</p> <p>25 terms of the promissory note that NexPoint</p>

<p style="text-align: right;">Page 142</p> <p>1 N. Dondero</p> <p>2 issued in favor of Highland?</p> <p>3 A. 30-year.</p> <p>4 Q. It was a 30-year note?</p> <p>5 A. Um-hmm.</p> <p>6 Q. Do you recall anything else about</p> <p>7 that note?</p> <p>8 A. I believe it was 2017.</p> <p>9 Q. Okay.</p> <p>10 A. And the amounts we already</p> <p>11 discussed.</p> <p>12 Q. Do you know who determined that</p> <p>13 the promissory note would be a 30-year</p> <p>14 term?</p> <p>15 A. I do not.</p> <p>16 Q. Do you know who on behalf of</p> <p>17 Highland agreed to accept a 30-year note</p> <p>18 from NexPoint?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I don't know, John.</p> <p>22 Q. Did you or Dugaboy make an effort</p> <p>23 at any time prior to the petition date to</p> <p>24 determine whether or not a 30-year term was</p> <p>25 appropriate?</p>	<p style="text-align: right;">Page 143</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. No.</p> <p>5 Q. Did you or Dugaboy ask anybody at</p> <p>6 any time prior to the petition date whether</p> <p>7 a 30-year term was appropriate?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. Not that I recall.</p> <p>11 Q. Did you or Dugaboy know prior to</p> <p>12 the petition date whether the \$30 million</p> <p>13 note was the subject of any negotiation</p> <p>14 between NexPoint and Highland?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. I didn't know.</p> <p>18 Q. Did you or Dugaboy ask anybody at</p> <p>19 any time prior to the petition date whether</p> <p>20 the \$30 million note was subject to</p> <p>21 negotiation?</p> <p>22 A. Subject to negotiation? Can you</p> <p>23 elaborate? What negotiation?</p> <p>24 Q. Are you aware of anybody on</p> <p>25 behalf of Highland suggesting that the term</p>
<p style="text-align: right;">Page 144</p> <p>1 N. Dondero</p> <p>2 of the note should be something other than</p> <p>3 30 years?</p> <p>4 A. No. Changing that term, no, I'm</p> <p>5 not familiar.</p> <p>6 Q. Okay. Let's switch topics and</p> <p>7 I'll cover this topic and then we can take</p> <p>8 a lunch break.</p> <p>9 I'd like to turn now to the</p> <p>10 limited partnership agreement, the LP</p> <p>11 agreement as I think we've defined it. And</p> <p>12 I'm going to ask my colleague to put up on</p> <p>13 the screen – I don't think it's in the</p> <p>14 binder that I gave you.</p> <p>15 MS. DEITSCH-PEREZ: Yes, it is.</p> <p>16 MR. MORRIS: Oh, is it?</p> <p>17 MS. DEITSCH-PEREZ: It is?</p> <p>18 MR. MORRIS: What number is it?</p> <p>19 MS. DEITSCH-PEREZ: It is number</p> <p>20 2, it looks like.</p> <p>21 MR. MORRIS: So we'll put it up</p> <p>22 on the screen and then you can look at</p> <p>23 the hard copy.</p> <p>24 MS. DEITSCH-PEREZ: Okay. Is</p> <p>25 there a particular page you want to</p>	<p style="text-align: right;">Page 145</p> <p>1 N. Dondero</p> <p>2 turn to?</p> <p>3 MR. MORRIS: Let's just start</p> <p>4 with this.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Do you understand –</p> <p>7 MS. DEITSCH-PEREZ: Hang on a</p> <p>8 minute. One second.</p> <p>9 Okay. We're good. We've got it.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Okay. Are you looking at the</p> <p>12 document that is Exhibit 4 that's attached</p> <p>13 to the document that's been denoted as</p> <p>14 number 2?</p> <p>15 MS. DEITSCH-PEREZ: Yes.</p> <p>16 Turn to the page before the one</p> <p>17 that says –</p> <p>18 THE WITNESS: Oh, okay.</p> <p>19 A. So page 4 of 37?</p> <p>20 Q. Yes.</p> <p>21 (Document review.)</p> <p>22 A. Okay.</p> <p>23 Q. All right.</p> <p>24 A. Okay. Go ahead.</p> <p>25 Q. At the top, do you see it says</p>

<p style="text-align: right;">Page 146</p> <p>1 N. Dondero</p> <p>2 Document 63-4 in the middle?</p> <p>3 A. Yes, I do.</p> <p>4 Q. And you're at page 2 of 37,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. Do you understand that</p> <p>8 this is the document we defined earlier as</p> <p>9 the LP agreement?</p> <p>10 A. Yes, sir.</p> <p>11 Q. Have you seen this document</p> <p>12 before now?</p> <p>13 A. Yes.</p> <p>14 Q. Do you recall when you saw this</p> <p>15 document for the first time?</p> <p>16 A. Shortly after it was made, when I</p> <p>17 was trustee.</p> <p>18 Q. Okay. Do you recall the</p> <p>19 circumstances under which you saw the LP</p> <p>20 agreement for the first time?</p> <p>21 A. No, I don't remember the</p> <p>22 circumstance.</p> <p>23 Q. Do you have a copy of the LP</p> <p>24 agreement in your personal possession?</p> <p>25 Like other than right now, did you have it</p>	<p style="text-align: right;">Page 147</p> <p>1 N. Dondero</p> <p>2 before today or before I sent it?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Do you recall when you</p> <p>5 first obtained a copy of the LP agreement?</p> <p>6 A. The very first time?</p> <p>7 Q. Yeah.</p> <p>8 A. I don't know specifically, John.</p> <p>9 Q. Can we go to the document -- the</p> <p>10 page that's marked 32 of 37?</p> <p>11 MS. DEITSCH-PEREZ: 2 of 37?</p> <p>12 THE WITNESS: 32 of 7 -- 32 of</p> <p>13 37.</p> <p>14 MS. DEITSCH-PEREZ: Thank you.</p> <p>15 (Document review.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. And is that your signature there?</p> <p>18 MR. MORRIS: If we can get page</p> <p>19 32 of 37 up on the screen.</p> <p>20 (Document review.)</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. And is that your signature there,</p> <p>23 ma'am?</p> <p>24 A. Well, on the paper copy, it is.</p> <p>25 Oh, there it is. Yes.</p>
<p style="text-align: right;">Page 148</p> <p>1 N. Dondero</p> <p>2 Q. Okay.</p> <p>3 MR. MORRIS: And I apologize La</p> <p>4 Asia, but can we go now to Section</p> <p>5 3.10?</p> <p>6 We're going to mark it. This one</p> <p>7 is Exhibit 2. Don't worry that we are</p> <p>8 going out of order. They're premarked.</p> <p>9 So this document we're going to mark as</p> <p>10 Exhibit 2.</p> <p>11 (N. Dondero Exhibit 2, Amended</p> <p>12 Complaint for (1) Breach of Contract,</p> <p>13 (II) Turnover of Property, (III)</p> <p>14 Fraudulent Transfer, and (IV) Breach of</p> <p>15 Fiduciary Duty, marked for</p> <p>16 identification, as of this date.)</p> <p>17 MS. DEITSCH-PEREZ: Did I miss</p> <p>18 Exhibit 1?</p> <p>19 MR. MORRIS: No.</p> <p>20 MS. DEITSCH-PEREZ: Okay.</p> <p>21 BY MR. MORRIS:</p> <p>22 Q. Do you see Section 3.10? Do you</p> <p>23 have that in front of you?</p> <p>24 A. Yes.</p> <p>25 Q. Have you seen that provision of</p>	<p style="text-align: right;">Page 149</p> <p>1 N. Dondero</p> <p>2 the LP agreement before?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recall when you first read</p> <p>5 or you first saw Section 3.10?</p> <p>6 A. On the day I probably signed it.</p> <p>7 Q. All right. I don't want you to</p> <p>8 speculate. I want you to search your</p> <p>9 memory.</p> <p>10 A. Okay.</p> <p>11 Q. Do you recall when you saw</p> <p>12 Section 3.10 for the first time?</p> <p>13 A. The first time I saw the</p> <p>14 document.</p> <p>15 Q. Okay. Do you recall the</p> <p>16 circumstances under which you reviewed</p> <p>17 Section 3.10?</p> <p>18 A. Prior to signing the document.</p> <p>19 Q. Do you see there is a reference</p> <p>20 in the document in Section 3.10 to majority</p> <p>21 interest?</p> <p>22 A. Yes, sir.</p> <p>23 Q. Do you have an understanding of</p> <p>24 what that term means?</p> <p>25 A. Class A shareholders -- limited</p>

<p style="text-align: right;">Page 150</p> <p>1 N. Dondero</p> <p>2 partners. I apologize.</p> <p>3 Q. And what is the basis for that</p> <p>4 understanding?</p> <p>5 A. Because the class A limited</p> <p>6 partners is the majority interest. Holds</p> <p>7 – I'm sorry, holds the majority interest.</p> <p>8 Q. And did you ever discuss that</p> <p>9 with anybody at any time?</p> <p>10 MS. DEITSCH-PEREZ: And I'm going</p> <p>11 to direct her to ask exclude any</p> <p>12 discussions with lawyers. So other –</p> <p>13 MR. MORRIS: Let me rephrase the</p> <p>14 question. Let me rephrase the</p> <p>15 question.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Did you ever discuss the</p> <p>18 definition of majority interest with</p> <p>19 anybody at any time prior to the petition</p> <p>20 date?</p> <p>21 A. I don't recall.</p> <p>22 Q. Do you believe that Dugaboy holds</p> <p>23 a majority interest, as that term is used</p> <p>24 in Section 3.10?</p> <p>25 A. Yes, I do believe that.</p>	<p style="text-align: right;">Page 151</p> <p>1 N. Dondero</p> <p>2 Q. And did you believe that prior to</p> <p>3 the petition date?</p> <p>4 A. Yes.</p> <p>5 Q. What was the basis for your</p> <p>6 belief prior to the petition date that</p> <p>7 Dugaboy held a majority interest?</p> <p>8 A. I was told that Dugaboy held the</p> <p>9 majority interest.</p> <p>10 Q. And who told you that Dugaboy</p> <p>11 held the majority interest?</p> <p>12 A. Melissa Schroth.</p> <p>13 Q. Do you recall when Ms. Schroth</p> <p>14 told you that?</p> <p>15 A. Shortly after I became trustee.</p> <p>16 Q. And can you tell me who Melissa</p> <p>17 Schroth is?</p> <p>18 A. Melissa is a financial assistant</p> <p>19 with Jim.</p> <p>20 Q. And you communicated with</p> <p>21 Ms. Schroth on a regular basis prior to the</p> <p>22 petition date; is that fair?</p> <p>23 A. Correct.</p> <p>24 Q. Do you know, is Ms. Schroth a</p> <p>25 lawyer?</p>
<p style="text-align: right;">Page 152</p> <p>1 N. Dondero</p> <p>2 A. I don't believe so.</p> <p>3 Q. Do you know anything about her</p> <p>4 background or expertise?</p> <p>5 A. Accounting, I believe.</p> <p>6 Q. Did you ever do anything to</p> <p>7 corroborate what Ms. Schroth told you about</p> <p>8 Dugaboy being a majority interest?</p> <p>9 A. I had no reason to disbelieve</p> <p>10 her.</p> <p>11 Q. But you didn't do anything to</p> <p>12 corroborate that; is that right?</p> <p>13 A. I did not, sir.</p> <p>14 Q. Did you seek any advice from</p> <p>15 anybody to ascertain whether what</p> <p>16 Ms. Schroth told you was accurate?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay. Do you see at the end of</p> <p>19 Section 3.10, there is a reference to NAV</p> <p>20 trigger period?</p> <p>21 A. Yes.</p> <p>22 Q. Do you have an understanding –</p> <p>23 withdrawn.</p> <p>24 Did you have an understanding</p> <p>25 prior to the petition date of what a NAV</p>	<p style="text-align: right;">Page 153</p> <p>1 N. Dondero</p> <p>2 trigger period was?</p> <p>3 A. No.</p> <p>4 Q. Did you ever ask anybody prior to</p> <p>5 the petition date what a NAV trigger period</p> <p>6 was?</p> <p>7 A. I don't believe so.</p> <p>8 Q. Did you or Dugaboy make any</p> <p>9 effort prior to the petition date to</p> <p>10 ascertain whether a NAV trigger period had</p> <p>11 occurred?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Did you or Dugaboy ever know</p> <p>14 prior to the petition date whether in fact</p> <p>15 a NAV trigger period had ever occurred?</p> <p>16 A. I don't think so.</p> <p>17 Q. All right.</p> <p>18 MR. MORRIS: I think if it's okay</p> <p>19 with you guys, now might be a nice time</p> <p>20 to take a lunch break.</p> <p>21 I prefer that it not be too</p> <p>22 extended. Would it be okay if we came</p> <p>23 back at the bottom of the hour?</p> <p>24 THE WITNESS: 1:30, would that be</p> <p>25 okay?</p>

<p style="text-align: right;">Page 154</p> <p>1 N. Dondero</p> <p>2 MR. MORRIS: Yeah, 1:30 Central.</p> <p>3 Is that good?</p> <p>4 THE WITNESS: That would be</p> <p>5 great. Thank you.</p> <p>6 MR. MORRIS: Thanks so much.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 12:54. We're going off the record.</p> <p>9 (Recess is taken.)</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 155</p> <p>1 N. Dondero</p> <p>2 AFTERNOON SESSION</p> <p>3 (Time noted: 1:35 p.m.)</p> <p>4 THE VIDEOGRAPHER: The time is</p> <p>5 1:35. We are back on the record.</p> <p>6 * * *</p> <p>7 NANCY DONDERO, resumed and</p> <p>8 testified as follows:</p> <p>9 EXAMINATION BY (Cont'd.)</p> <p>10 MR. MORRIS:</p> <p>11 Q. Ms. Dondero, are you ready to</p> <p>12 proceed?</p> <p>13 A. I am.</p> <p>14 MR. MORRIS: Are you Deborah?</p> <p>15 MS. DEITSCH-PEREZ: (Nodding.)</p> <p>16 MR. MORRIS: Okay. Thank you.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Can you hear me okay?</p> <p>19 A. Yes, sir.</p> <p>20 Q. Okay. I've switched from my</p> <p>21 phone to my computer. Somehow it worked.</p> <p>22 Now I wanted to make sure you can hear me.</p> <p>23 Ms. Dondero, did you speak to</p> <p>24 anybody during the break about the</p> <p>25 substance of your testimony?</p>
<p style="text-align: right;">Page 156</p> <p>1 N. Dondero</p> <p>2 A. No, sir.</p> <p>3 Q. Did you speak to anybody during</p> <p>4 the break regarding the substance of this</p> <p>5 deposition in any way?</p> <p>6 A. No, sir.</p> <p>7 Q. Okay. When we left, we had just</p> <p>8 looked at Section 3.10 of the LP agreement.</p> <p>9 Do you remember that?</p> <p>10 A. Yes.</p> <p>11 Q. Is there anything about the LP</p> <p>12 agreement that you -- withdrawn.</p> <p>13 Is there anything that you or</p> <p>14 Dugaboy don't understand about Section 3.10</p> <p>15 of the LP agreement?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. You can answer.</p> <p>20 A. No.</p> <p>21 Q. Is there any aspect of Section</p> <p>22 3.10 that you and Dugaboy thinks is</p> <p>23 ambiguous?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">Page 157</p> <p>1 N. Dondero</p> <p>2 A. No.</p> <p>3 Q. Let's switch gears now and let's</p> <p>4 talk about the oral agreement that's been</p> <p>5 referred to in this litigation.</p> <p>6 I'd like to put up on the screen</p> <p>7 a document that you don't have a hard copy</p> <p>8 of, or at least I didn't give it to you,</p> <p>9 and that would be the Amended Complaint</p> <p>10 that was served by Highland against you and</p> <p>11 your brother and Dugaboy.</p> <p>12 MR. MORRIS: And that document</p> <p>13 we're marking for purposes of the</p> <p>14 deposition as Exhibit No. 31.</p> <p>15 (N. Dondero Exhibit 31, Defendant</p> <p>16 James Donder's Answer to Amended</p> <p>17 Complaint, marked for identification,</p> <p>18 as of this date.)</p> <p>19 MR. MORRIS: Can we put that on</p> <p>20 the screen, please, and turn to</p> <p>21 paragraph 82?</p> <p>22 Actually, stop right there.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. Ms. Dondero, have you ever seen,</p> <p>25 if we can scroll up -- and, again, this is</p>

<p>Page 158</p> <p>1 N. Dondero</p> <p>2 consistent with what I explained to you at</p> <p>3 the beginning of the deposition.</p> <p>4 I don't mean to rush you. I</p> <p>5 think you should take all the time you need</p> <p>6 to look at this document if you want to,</p> <p>7 but my first question is simply whether you</p> <p>8 have ever seen this document before. And</p> <p>9 if you need to see more of it, just let me</p> <p>10 know.</p> <p>11 (Document review.)</p> <p>12 A. Can you scroll to the next page,</p> <p>13 John, please?</p> <p>14 Q. Sure.</p> <p>15 (Document review.)</p> <p>16 MS. DEITSCH-PEREZ: I have a hard</p> <p>17 copy here I could give the witness.</p> <p>18 Do you want me to do that?</p> <p>19 MR. MORRIS: Sure.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. And just for clarity,</p> <p>22 Ms. Dondero, this is the Amended Complaint</p> <p>23 that Highland served to collect on the</p> <p>24 notes that were issued by your brother.</p> <p>25 A. Okay.</p>	<p>Page 159</p> <p>1 N. Dondero</p> <p>2 MS. CANTY: John, I'm sorry. 31</p> <p>3 is actually the answer to the Amended</p> <p>4 Complaint.</p> <p>5 MR. MORRIS: I'm sorry. I</p> <p>6 apologize that. Let me restate that.</p> <p>7 Exhibit 31 is the answer,</p> <p>8 Mr. Dondero's answer to the Amended</p> <p>9 Complaint.</p> <p>10 MS. DEITSCH-PEREZ: All right.</p> <p>11 So what are you asking if she has seen?</p> <p>12 I was going to hand her the complaint.</p> <p>13 MR. MORRIS: It's my mistake,</p> <p>14 Deborah. If we can go back to – if we</p> <p>15 can go back to the top.</p> <p>16 Let me start this over.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see, Ms. Dondero, that</p> <p>19 this is defendant James Dondero's answer to</p> <p>20 Amended Complaint?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. Have you ever seen your brother's</p> <p>23 answer to the Amended Complaint?</p> <p>24 A. I don't remember if I've seen</p> <p>25 this or not. Deborah just gave me a hard</p>
<p>Page 160</p> <p>1 N. Dondero</p> <p>2 copy. Can I have a quick minute to glance</p> <p>3 over it?</p> <p>4 Q. Sure. Take your time. And let</p> <p>5 me know at the top of it, what the docket</p> <p>6 number is.</p> <p>7 A. Certainly.</p> <p>8 Docket No. DOC 83 –</p> <p>9 Q. Okay. Perfect.</p> <p>10 A. – filed on December 3rd.</p> <p>11 Is that it?</p> <p>12 Q. Yes. So we are looking at the</p> <p>13 same thing.</p> <p>14 MR. MORRIS: And this document is</p> <p>15 going to be marked as Exhibit 31.</p> <p>16 A. Okay.</p> <p>17 Q. All right. Have you seen this</p> <p>18 document before?</p> <p>19 A. I think so.</p> <p>20 Q. Okay.</p> <p>21 MR. MORRIS: I'm going to ask, La</p> <p>22 Asia go to paragraph 82.</p> <p>23 A. Okay.</p> <p>24 Q. Do you see paragraph 82 is up on</p> <p>25 the screen?</p>	<p>Page 161</p> <p>1 N. Dondero</p> <p>2 A. Yes, sir.</p> <p>3 Q. So I'm going to read a portion of</p> <p>4 it to you beginning at the very top, okay?</p> <p>5 I just want you to follow along</p> <p>6 with me.</p> <p>7 Paragraph 82 says in part,</p> <p>8 "Plaintiff's claims are barred in whole or</p> <p>9 in part because prior to the demands for</p> <p>10 payment, plaintiff agreed that it would not</p> <p>11 collect the notes upon fulfillment of</p> <p>12 condition subsequent. Specifically,</p> <p>13 sometime between December of the year in</p> <p>14 which each note was made and February the</p> <p>15 following year, Defendant Nancy Dondero, as</p> <p>16 representative for a majority of the Class</p> <p>17 A shareholders of plaintiff agreed that</p> <p>18 plaintiff would forgive the notes if</p> <p>19 certain portfolio companies were sold for</p> <p>20 greater than cost or on a basis outside of</p> <p>21 defendant James Dondero's control. The</p> <p>22 purpose of this agreement was to provide</p> <p>23 compensation to defendant James Dondero,</p> <p>24 who was otherwise underpaid compared to</p> <p>25 reasonable compensation levels in the</p>

<p style="text-align: right;">Page 162</p> <p>1 N. Dondero</p> <p>2 industry through the use of forgivable</p> <p>3 loans, a practice that was standard at</p> <p>4 HCMLP and in the industry."</p> <p>5 Have I read that correctly?</p> <p>6 A. Um-hmm, yes.</p> <p>7 Q. Okay. To the best of your</p> <p>8 knowledge, is the portion of paragraph 82</p> <p>9 that I just read true and accurate?</p> <p>10 A. Yes. Correct.</p> <p>11 Q. Are you aware, as Dugaboy's</p> <p>12 30(b)(6) witness, that HCRE, HCMS, and</p> <p>13 NexPoint all make the same allegation in</p> <p>14 defense?</p> <p>15 A. Yes.</p> <p>16 Q. So is it your testimony that the</p> <p>17 statement that I just read from paragraph</p> <p>18 82 applies to the promissory notes issued</p> <p>19 by HCRE, HCMS, and NexPoint, and that are</p> <p>20 the subject of the lawsuits?</p> <p>21 A. Yes.</p> <p>22 Q. So it's your testimony that you</p> <p>23 entered into oral agreements with your</p> <p>24 brother between December and the year each</p> <p>25 note was made, and February of the</p>	<p style="text-align: right;">Page 163</p> <p>1 N. Dondero</p> <p>2 following year, pursuant to which plaintiff</p> <p>3 agreed that plaintiff would forgive the</p> <p>4 notes if certain portfolio companies were</p> <p>5 sold for greater than cost or on a basis</p> <p>6 outside of James Dondero's control,</p> <p>7 correct?</p> <p>8 A. That is correct.</p> <p>9 Q. Can we refer to each of the oral</p> <p>10 agreements that you entered into with your</p> <p>11 brother concerning the promissory notes</p> <p>12 that are described in paragraph 82 as an</p> <p>13 agreement and collectively as the</p> <p>14 agreements?</p> <p>15 A. Certainly.</p> <p>16 MS. DEITSCH-PEREZ: Okay. And</p> <p>17 just, John, just so I don't have to</p> <p>18 object each time, when you say "you,"</p> <p>19 you're talking about Dugaboy?</p> <p>20 MR. MORRIS: I'm talking about</p> <p>21 both unless I say otherwise. But thank</p> <p>22 you for pointing that out.</p> <p>23 MS. DEITSCH-PEREZ: Okay.</p> <p>24 MR. DRAPER: John, just so you</p> <p>25 know, to the extent that – hold on.</p>
<p style="text-align: right;">Page 164</p> <p>1 N. Dondero</p> <p>2 I'm muted.</p> <p>3 To the extent Deborah raises an</p> <p>4 objection for the "you," Nancy, as a</p> <p>5 trustee, I'm not going to say anything,</p> <p>6 but my objection is a follow-on for the</p> <p>7 same thing, for the same reasons.</p> <p>8 MR. MORRIS: Okay. I appreciate</p> <p>9 that, Douglas.</p> <p>10 So I'm going to ask the question</p> <p>11 again.</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Is it your testimony that you, as</p> <p>14 the trustee of The Dugaboy Investment</p> <p>15 Trust, entered into oral agreements with</p> <p>16 your brother between December and the year</p> <p>17 each note was made and February of the</p> <p>18 following year, pursuant to which plaintiff</p> <p>19 agreed that plaintiff would forgive the</p> <p>20 notes if certain portfolio companies were</p> <p>21 sold for greater than cost or on a basis</p> <p>22 outside of James Dondero's control?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. And can we refer to each</p> <p>25 of the oral agreements that are the subject</p>	<p style="text-align: right;">Page 165</p> <p>1 N. Dondero</p> <p>2 of paragraph 82 individually as an</p> <p>3 agreement and collectively as the</p> <p>4 agreements?</p> <p>5 A. Um-hmm. Yes.</p> <p>6 Q. Is that a yes?</p> <p>7 A. Yes. That is a yes. Sorry.</p> <p>8 Q. And do you and Dugaboy understand</p> <p>9 that the phrase "plaintiff" in paragraph 82</p> <p>10 refers to Highland?</p> <p>11 A. Yes.</p> <p>12 Q. And do you and Dugaboy understand</p> <p>13 that Dugaboy, as the representative of a</p> <p>14 majority of the Class A shareholders of</p> <p>15 Highland is the actual entity that entered</p> <p>16 into the agreements on behalf of Highland?</p> <p>17 A. Yes.</p> <p>18 Q. And you are the trustee of</p> <p>19 Dugaboy today, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And you were the trustee of</p> <p>22 Dugaboy at the time each of the agreements</p> <p>23 referred to in paragraph 82 was entered</p> <p>24 into, correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 166</p> <p>1 N. Dondero</p> <p>2 Q. And you personally caused Dugaboy</p> <p>3 to enter into each agreement that is</p> <p>4 referred to in paragraph 82, correct?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. You can answer.</p> <p>9 MS. DEITSCH-PEREZ: I'm sorry,</p> <p>10 John, can you repeat the question,</p> <p>11 please?</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. You personally caused Dugaboy to</p> <p>14 enter into each of the agreements that's</p> <p>15 referred to in paragraph 82, correct?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. Correct.</p> <p>19 Q. What is Dugaboy?</p> <p>20 A. The trust, the living</p> <p>21 maintenance, education, and health trust.</p> <p>22 Q. Do you know when it was formed?</p> <p>23 A. 2010.</p> <p>24 Q. Have you been the trustee of the</p> <p>25 Dugaboy Trust since the time it was</p>	<p style="text-align: right;">Page 167</p> <p>1 N. Dondero</p> <p>2 created?</p> <p>3 A. No.</p> <p>4 Q. Who preceded you as trustee, to</p> <p>5 the best of your knowledge?</p> <p>6 A. I don't know.</p> <p>7 Q. Did you ever ask anybody who</p> <p>8 preceded you as trustee of The Dugaboy</p> <p>9 Investment Trust?</p> <p>10 A. Did I ever ask who was the</p> <p>11 trustee prior to –</p> <p>12 Q. Yes.</p> <p>13 A. I did not.</p> <p>14 Q. Okay. Do you recall when you</p> <p>15 became the trustee of the Dugaboy Trust?</p> <p>16 A. October 2015.</p> <p>17 Q. Did somebody appoint you to be</p> <p>18 trustee of the Dugaboy Trust?</p> <p>19 A. By "appoint," do you mean asked</p> <p>20 me to be?</p> <p>21 Q. Okay. Let me restate the</p> <p>22 question.</p> <p>23 A. Sorry.</p> <p>24 Q. Do you know how you became the</p> <p>25 trustee of the Dugaboy Trust?</p>
<p style="text-align: right;">Page 168</p> <p>1 N. Dondero</p> <p>2 A. Jim had asked me to.</p> <p>3 Q. Did Jim ask you to be the Dugaboy</p> <p>4 trustee at around the same time that you</p> <p>5 became the trustee?</p> <p>6 A. That's correct.</p> <p>7 Q. Prior to accepting Jim's –</p> <p>8 withdrawn.</p> <p>9 Did you agree to become the</p> <p>10 trustee at the Dugaboy Trust in response to</p> <p>11 Jim's request?</p> <p>12 A. Yes, sir.</p> <p>13 Q. Okay. Before you accepted the</p> <p>14 appointment as trustee of the Dugaboy</p> <p>15 Trust, did you obtain any information about</p> <p>16 the purpose of the Dugaboy Trust?</p> <p>17 A. Yes.</p> <p>18 Q. What information do you recall</p> <p>19 obtaining before you agreed to serve as the</p> <p>20 trustee at the Dugaboy Trust?</p> <p>21 A. The purpose of the trust is to</p> <p>22 provide health, education, maintenance,</p> <p>23 lifestyle for the beneficiaries, who is my</p> <p>24 brother, for as long as he lives and then</p> <p>25 his children and subsequent generations.</p>	<p style="text-align: right;">Page 169</p> <p>1 N. Dondero</p> <p>2 Q. Is your brother the sole</p> <p>3 beneficiary of the Dugaboy Trust during his</p> <p>4 lifetime?</p> <p>5 A. Yes.</p> <p>6 Q. Did you make any independent</p> <p>7 decisions with respect to the Dugaboy</p> <p>8 Trust?</p> <p>9 A. Of course.</p> <p>10 Q. Do you know if the Dugaboy Trust</p> <p>11 owned an interest in Highland at the time</p> <p>12 Dugaboy entered into each of the agreements</p> <p>13 referred to in paragraph 82?</p> <p>14 A. Okay. I'm sorry. Say that</p> <p>15 again, John.</p> <p>16 Q. Do you know whether Dugaboy owned</p> <p>17 an interest in Highland at the time each</p> <p>18 agreement was entered into?</p> <p>19 MS. DEITSCH-PEREZ: Other than</p> <p>20 what she's already testified to?</p> <p>21 A. Other than it being a major Class</p> <p>22 A shareholder, John? A limited partner.</p> <p>23 Q. I'm sorry, it's a little bit of a</p> <p>24 different question.</p> <p>25 A. Okay.</p>

<p style="text-align: right;">Page 170</p> <p>1 N. Dondero</p> <p>2 Q. You entered into more than one</p> <p>3 agreement with your brother; is that right?</p> <p>4 A. That's correct.</p> <p>5 Q. How many agreements did you enter</p> <p>6 into with him?</p> <p>7 A. Okay. How many notes or how many</p> <p>8 agreements – you mean, per – one per year</p> <p>9 for three years covering 13 notes.</p> <p>10 Q. So there's three annual</p> <p>11 agreements that you recall? Do I have that</p> <p>12 right?</p> <p>13 A. Correct.</p> <p>14 Q. And was Dugaboy's interest in</p> <p>15 Highland the same at each moment that you</p> <p>16 entered into each of the three agreements?</p> <p>17 A. I'm sorry?</p> <p>18 Q. Do you know whether – do you</p> <p>19 know whether Dugaboy's interest in Highland</p> <p>20 changed at all between the time that you</p> <p>21 entered into each of the three agreements</p> <p>22 that you just referred to?</p> <p>23 A. I don't know. I don't think so.</p> <p>24 Q. Did you ever ask anybody at any</p> <p>25 time prior to the petition date if</p>	<p style="text-align: right;">Page 171</p> <p>1 N. Dondero</p> <p>2 Dugaboy's interest in Highland changed at</p> <p>3 any time during the period in which you</p> <p>4 were entering into these agreements on</p> <p>5 behalf of Dugaboy?</p> <p>6 A. No.</p> <p>7 And, John, can I back up for a</p> <p>8 second?</p> <p>9 Q. Sure.</p> <p>10 A. Just in answer to one of my</p> <p>11 questions when I said that I had three</p> <p>12 conversations with Jim. That pertained to</p> <p>13 this procedure. That's my answer for this</p> <p>14 scope.</p> <p>15 Q. Right.</p> <p>16 A. Okay. Just so we're on the same</p> <p>17 page. Okay. Okay.</p> <p>18 Q. And do you recall – we'll get to</p> <p>19 it.</p> <p>20 All right. So you entered into</p> <p>21 three agreements.</p> <p>22 Do I have that right?</p> <p>23 A. Correct.</p> <p>24 Q. And do you recall when you</p> <p>25 entered into each one of the three</p>
<p style="text-align: right;">Page 172</p> <p>1 N. Dondero</p> <p>2 agreements?</p> <p>3 A. To the best of my recollection,</p> <p>4 it was around the holidays.</p> <p>5 Q. Do you remember the year you</p> <p>6 entered into the first agreement?</p> <p>7 A. It would have been either been</p> <p>8 the tail end of '17, beginning of '18.</p> <p>9 Q. And would the second agreement be</p> <p>10 the tail of '18, the beginning of '19?</p> <p>11 A. Correct, sir.</p> <p>12 Q. And would the third one be the</p> <p>13 tail of '19 and the beginning of '20?</p> <p>14 A. Either/or. Correct. Um-hmm.</p> <p>15 Q. Okay. And when we say late in</p> <p>16 each year, is paragraph 82 correct, to the</p> <p>17 best of your knowledge, that it was either</p> <p>18 December of the year or the following</p> <p>19 January or February?</p> <p>20 A. Correct.</p> <p>21 Q. So it's your recollection that as</p> <p>22 the trustee of The Dugaboy Investment</p> <p>23 Trust, you entered into an agreement</p> <p>24 pursuant to 3.10 of the LP agreement in</p> <p>25 either December 2019 or January or February</p>	<p style="text-align: right;">Page 173</p> <p>1 N. Dondero</p> <p>2 of 2020?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. So you entered into that</p> <p>5 third agreement after the petition date.</p> <p>6 Do I have that right?</p> <p>7 A. That's correct.</p> <p>8 Q. Do you recall that there came a</p> <p>9 time in January of 2020 when your brother</p> <p>10 relinquished control of Highland in favor</p> <p>11 of an independent board?</p> <p>12 A. January of '20, yes. Um-hmm.</p> <p>13 Q. Do you recall if the agreement</p> <p>14 that you entered into in late 2019 or early</p> <p>15 2020 occurred before or after your brother</p> <p>16 surrendered control of Highland?</p> <p>17 A. I believe it was before.</p> <p>18 Q. So sometime in December of 2019</p> <p>19 or prior to the date in January when your</p> <p>20 brother surrendered control, you and your</p> <p>21 brother entered into the third in the</p> <p>22 series of three oral agreements that are</p> <p>23 referred to in paragraph 82, correct?</p> <p>24 A. Correct.</p> <p>25 Q. Okay. Do you recall what the</p>

<p style="text-align: right;">Page 174</p> <p>1 N. Dondero</p> <p>2 terms of each of the oral agreements was?</p> <p>3 A. They were all the same, the</p> <p>4 agreements. Obviously for different notes.</p> <p>5 But the terms were that the notes would be</p> <p>6 forgiven if any of the three portfolio</p> <p>7 companies that we discussed earlier,</p> <p>8 Trussway, Cornerstone, MGM, would monetize</p> <p>9 at a higher value, and then the notes would</p> <p>10 be forgiven and considered deferred</p> <p>11 compensation.</p> <p>12 Q. And when you say a higher value,</p> <p>13 did you understand at the time you entered</p> <p>14 into the agreements what higher value</p> <p>15 meant?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. What does higher value</p> <p>18 mean in the context of the agreements that</p> <p>19 you entered into with your brother?</p> <p>20 A. Higher than the purchase price.</p> <p>21 Q. So do I have this correct that if</p> <p>22 one of the three portfolio companies was</p> <p>23 sold for a value that exceeded the cost by</p> <p>24 at least one dollar, then all of the notes</p> <p>25 that were subject to the agreements would</p>	<p style="text-align: right;">Page 175</p> <p>1 N. Dondero</p> <p>2 be forgiven?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. Can you identify the</p> <p>5 promissory notes that were the subject of</p> <p>6 each of the three agreements?</p> <p>7 A. I don't understand by identified,</p> <p>8 John. In your book or –</p> <p>9 Q. Are you able to list for me the</p> <p>10 promissory notes –</p> <p>11 A. Sure –</p> <p>12 Q. Let me finish the question,</p> <p>13 please.</p> <p>14 Are you able to list for me the</p> <p>15 promissory notes that were the subject of</p> <p>16 each of the three agreements?</p> <p>17 A. In 2017, there were four notes:</p> <p>18 One to NexPoint, two to HCRE, I believe,</p> <p>19 and one to HCMS. I don't have specifics,</p> <p>20 but I believe the four of them originally</p> <p>21 totaled somewhere near 60 million, in that</p> <p>22 ballpark, when they were originally set up.</p> <p>23 That was 2017.</p> <p>24 MS. DEITSCH-PEREZ: John, we have</p> <p>25 a list.</p>
<p style="text-align: right;">Page 176</p> <p>1 N. Dondero</p> <p>2 Do you want her to do this from</p> <p>3 memory or do you want her to look –</p> <p>4 MR. MORRIS: I don't. I'm going</p> <p>5 to try it a different way, Deborah.</p> <p>6 MS. DEITSCH-PEREZ: Okay.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Is there – did the three oral</p> <p>9 agreements with your brother –</p> <p>10 A. Yes?</p> <p>11 Q. – cover all of the promissory</p> <p>12 notes that are subject of the lawsuits in</p> <p>13 which are a defendant?</p> <p>14 A. Yes.</p> <p>15 Q. Do you know if any of the three</p> <p>16 agreements you entered into with your</p> <p>17 brother cover any promissory notes that are</p> <p>18 not the subject of the lawsuits in which</p> <p>19 you are a defendant?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 A. I don't believe they do.</p> <p>23 Q. Okay. So to the best of your</p> <p>24 knowledge, as the person who caused Dugaboy</p> <p>25 to enter into these agreements on behalf of</p>	<p style="text-align: right;">Page 177</p> <p>1 N. Dondero</p> <p>2 Highland, you do not believe that your</p> <p>3 agreements covered any promissory note that</p> <p>4 is the subject of the lawsuits that have</p> <p>5 been commenced against you, correct?</p> <p>6 MS. DEITSCH-PEREZ: Wait. Can</p> <p>7 you – I think you – can you have the</p> <p>8 court reporter read it back so you can</p> <p>9 hear it? Because either I heard it</p> <p>10 wrong or you misspoke, I think.</p> <p>11 THE REPORTER: I can read it</p> <p>12 back, if you'd like.</p> <p>13 MR. MORRIS: Sure.</p> <p>14 MS. DEITSCH-PEREZ: Yeah,</p> <p>15 Annette, can you read it back?</p> <p>16 THE REPORTER: Sure.</p> <p>17 (Question was read back as</p> <p>18 follows:</p> <p>19 "QUESTION: Okay. So to the best</p> <p>20 of your knowledge, as the person who</p> <p>21 caused Dugaboy to enter into these</p> <p>22 agreements on behalf of Highland, you</p> <p>23 do not believe that your agreements</p> <p>24 covered any promissory note that is the</p> <p>25 subject of the lawsuits that have been</p>

<p style="text-align: right;">Page 178</p> <p>1 N. Dondero</p> <p>2 commenced against you, correct?"</p> <p>3 MR. MORRIS: All right. Let me</p> <p>4 ask the question again. Let me ask the</p> <p>5 question again.</p> <p>6 MS. DEITSCH-PEREZ: Okay.</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. Ms. Dondero, as the person who</p> <p>9 caused Dugaboy to enter into the agreements</p> <p>10 described in paragraph 82 on behalf of</p> <p>11 Highland, do you have any reason to believe</p> <p>12 that those agreements related to any</p> <p>13 promissory notes that are not the subject</p> <p>14 of the lawsuits that have been commenced</p> <p>15 against you and Dugaboy?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 A. I believe they include the notes</p> <p>19 that we've been referring to, that we've</p> <p>20 been talking to about all day, John.</p> <p>21 Q. Okay. Did you or Dugaboy ever</p> <p>22 make a list of the promissory notes that</p> <p>23 were the subject of each agreement –</p> <p>24 withdrawn.</p> <p>25 Prior to the petition date, did</p>	<p style="text-align: right;">Page 179</p> <p>1 N. Dondero</p> <p>2 you or Dugaboy ever make a list of the</p> <p>3 promissory notes that were the subject of</p> <p>4 each agreement?</p> <p>5 MS. DEITSCH-PEREZ: Object to the</p> <p>6 form.</p> <p>7 A. I don't recall.</p> <p>8 Q. You have no recollection of you</p> <p>9 or Dugaboy ever writing down the promissory</p> <p>10 notes that were the subject of any of the</p> <p>11 three oral agreements that Dugaboy entered</p> <p>12 into with your brother, correct?</p> <p>13 A. I don't believe I did.</p> <p>14 Q. And you don't believe Dugaboy did</p> <p>15 either, right?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. Correct.</p> <p>19 Q. Are you or Dugaboy aware of</p> <p>20 anything in writing that identifies –</p> <p>21 withdrawn.</p> <p>22 Are you and Dugaboy aware of</p> <p>23 anything that was written prior to the</p> <p>24 petition date that identified the</p> <p>25 promissory notes that were the subject of</p>
<p style="text-align: right;">Page 180</p> <p>1 N. Dondero</p> <p>2 each agreement that was entered into?</p> <p>3 A. Am I aware of anything that was</p> <p>4 written down not by me?</p> <p>5 Q. Right.</p> <p>6 A. Nothing that I can recall at this</p> <p>7 time.</p> <p>8 Q. How do you know that the</p> <p>9 promissory notes that are the subject of</p> <p>10 the lawsuits against you were all subject</p> <p>11 to the oral agreements that you entered</p> <p>12 into on behalf of Dugaboy with your</p> <p>13 brother?</p> <p>14 A. Of the 13 notes in total, we</p> <p>15 discussed 4 and 17; 6 and 18; and 3 in 19,</p> <p>16 and that's total, if I'm not mistaken, the</p> <p>17 13 notes in question.</p> <p>18 Q. Okay. Now neither you nor</p> <p>19 Dugaboy ever saw any of the notes prior to</p> <p>20 the petition date, correct?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. That's correct.</p> <p>24 Q. And neither you nor Dugaboy are</p> <p>25 aware of any writing that was created prior</p>	<p style="text-align: right;">Page 181</p> <p>1 N. Dondero</p> <p>2 to the petition date that identified the</p> <p>3 promissory notes that were the subject of</p> <p>4 the agreements between Dugaboy and your</p> <p>5 brother, correct?</p> <p>6 A. That is correct.</p> <p>7 Q. So are you basing your belief</p> <p>8 that the agreements covered only the</p> <p>9 promissory notes that are the subject of</p> <p>10 the lawsuits on your memory or on anything</p> <p>11 else?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 MR. MORRIS: Withdrawn.</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. What is the basis for your belief</p> <p>17 that the agreements covered the promissory</p> <p>18 notes that are the subject of each – of</p> <p>19 the lawsuits against you and Dugaboy?</p> <p>20 A. Because I remember what we</p> <p>21 discussed.</p> <p>22 Q. So you have a memory. You</p> <p>23 remember that three to four years ago, you</p> <p>24 can remember the promissory notes that were</p> <p>25 the subject of your first agreement even</p>

<p style="text-align: right;">Page 182</p> <p>1 N. Dondero</p> <p>2 though you never saw the notes? Do I have</p> <p>3 that right?</p> <p>4 A. I remember the amount. I don't</p> <p>5 remember all the specifics from that many</p> <p>6 years ago, John, but I do remember the</p> <p>7 amount per each year, and I knew that there</p> <p>8 were 13 in total.</p> <p>9 Q. Who identified the notes that</p> <p>10 would be the subject of the agreements? Do</p> <p>11 you recall?</p> <p>12 A. In what context who identified</p> <p>13 them?</p> <p>14 Q. Well, the agreement was entered</p> <p>15 into twin in your capacity as the trustee</p> <p>16 of Dugaboy and your brother, correct?</p> <p>17 A. Correct.</p> <p>18 Q. As between you and your brother,</p> <p>19 did one of you identify the notes that</p> <p>20 would be the subject of the agreements?</p> <p>21 A. Yes, that would be –</p> <p>22 Q. And who identified – okay. And</p> <p>23 who was that?</p> <p>24 A. Jim.</p> <p>25 Q. And during these three</p>	<p style="text-align: right;">Page 183</p> <p>1 N. Dondero</p> <p>2 conversations, did he describe for you the</p> <p>3 notes that were going to be the subject of</p> <p>4 the conversation?</p> <p>5 A. Yes.</p> <p>6 Q. I apologize. I withdraw the</p> <p>7 question.</p> <p>8 Did your brother describe for you</p> <p>9 the notes that were going to be the subject</p> <p>10 of each agreement?</p> <p>11 A. Yes.</p> <p>12 Q. Do you have any basis for knowing</p> <p>13 which agreements – no. Withdrawn.</p> <p>14 Do you have any basis for knowing</p> <p>15 which notes are the subject of the</p> <p>16 agreements other than what your brother</p> <p>17 told you in the three – in the</p> <p>18 conversations that led to the three</p> <p>19 agreements?</p> <p>20 A. No, I don't believe so.</p> <p>21 Q. Did your brother explain to you</p> <p>22 why he selected these notes that are the</p> <p>23 subject of the lawsuits for inclusion in</p> <p>24 the agreements?</p> <p>25 A. Not that I recall.</p>
<p style="text-align: right;">Page 184</p> <p>1 N. Dondero</p> <p>2 MR. MORRIS: I'd like to put up</p> <p>3 on the screen a document that's been</p> <p>4 marked as Exhibit 43.</p> <p>5 (N. Dondero Exhibit 43,</p> <p>6 Promissory Note, Bates-stamped</p> <p>7 D-CNL000550 through 551, marked for</p> <p>8 identification, as of this date.)</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. And do you see, Ms. Dondero, that</p> <p>11 this is a promissory note dated January 18,</p> <p>12 2018, in the amount of \$7,900,000?</p> <p>13 MR. MORRIS: And if we can scroll</p> <p>14 to the bottom so we could see the</p> <p>15 signature.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Do you see that that's been</p> <p>18 signed by your brother?</p> <p>19 A. I see that.</p> <p>20 Q. Have you ever seen this</p> <p>21 particular promissory note before?</p> <p>22 MR. MORRIS: And we can go back</p> <p>23 to the top.</p> <p>24 (Document review.)</p> <p>25 A. It doesn't look familiar, John.</p>	<p style="text-align: right;">Page 185</p> <p>1 N. Dondero</p> <p>2 Q. This note is not a note that's</p> <p>3 subject to your agreement with your</p> <p>4 brother, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Do you know why?</p> <p>7 A. I do not.</p> <p>8 Q. And Highland has not sued anybody</p> <p>9 to collect under this note, to the best of</p> <p>10 your knowledge, correct?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. I –</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Withdrawn.</p> <p>16 Are you aware of any lawsuit that</p> <p>17 has been commenced by Highland to collect</p> <p>18 under this note?</p> <p>19 A. I am not aware of any.</p> <p>20 Q. When you entered into these</p> <p>21 agreements, did you have any understanding</p> <p>22 that the agreement would cover all of the</p> <p>23 notes that were executed by your brother or</p> <p>24 by other entities under the Highland</p> <p>25 umbrella?</p>

<p style="text-align: right;">Page 186</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 A. John, can you repeat the</p> <p>5 question, please?</p> <p>6 Q. Sure.</p> <p>7 At the time that you entered into</p> <p>8 the agreements, did you have any</p> <p>9 understanding that the agreements would</p> <p>10 cover all notes executed by your brother,</p> <p>11 NexPoint, HCRE and HCMS?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Was it your understanding</p> <p>14 that all promissory notes would be covered?</p> <p>15 MS. DEITSCH-PEREZ: Do you mean</p> <p>16 all of the ones at issue here or all,</p> <p>17 like, including –</p> <p>18 MR. MORRIS: No.</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 MR. MORRIS: I thought I was</p> <p>22 clear, but I'll try it one more time.</p> <p>23 MS. DEITSCH-PEREZ: Please.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. Was it your understanding that</p>	<p style="text-align: right;">Page 187</p> <p>1 N. Dondero</p> <p>2 when you entered into each of these</p> <p>3 agreements, that the agreements would cover</p> <p>4 every promissory note that was executed by</p> <p>5 your brother, by NexPoint, by HCMS, and by</p> <p>6 HCRE, irrespective of whether it wound up</p> <p>7 being part of the lawsuit?</p> <p>8 A. My understanding for the</p> <p>9 agreement I had with Jim is just for these</p> <p>10 13 notes.</p> <p>11 Q. Okay. So there may be other</p> <p>12 notes that Jim or NexPoint or HCRE or HCMS,</p> <p>13 there may be other notes that they</p> <p>14 executed, but if there are, they were not</p> <p>15 the subject of any of your agreements with</p> <p>16 your brother, correct?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 You mean any of the agreements</p> <p>20 that she's been testifying here today?</p> <p>21 MR. MORRIS: Yes. We've defined</p> <p>22 agreements, so unless there is a</p> <p>23 question, unless somebody wants to</p> <p>24 revisit the definition, we've defined</p> <p>25 it.</p>
<p style="text-align: right;">Page 188</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Okay. Got</p> <p>3 it. No.</p> <p>4 A. Um-hmm.</p> <p>5 Q. When you say "um-hmm," what could</p> <p>6 you mean?</p> <p>7 A. I'm sorry, John. The</p> <p>8 conversation got me away from the question.</p> <p>9 I'm sorry. I'm sorry.</p> <p>10 MS. DEITSCH-PEREZ: It's my</p> <p>11 fault.</p> <p>12 THE WITNESS: I'm sorry.</p> <p>13 A. Go ahead, John.</p> <p>14 MR. MORRIS: Can I have the last</p> <p>15 question read back, please.</p> <p>16 THE REPORTER: Sure.</p> <p>17 (Question was read back as</p> <p>18 follows:</p> <p>19 "QUESTION: Okay. So there may</p> <p>20 be other notes that Jim or NexPoint or</p> <p>21 HCRE or HCMS, there may be other notes</p> <p>22 that they executed, but if there are,</p> <p>23 they were not the subject of any of</p> <p>24 your agreements with your brother,</p> <p>25 correct?")</p>	<p style="text-align: right;">Page 189</p> <p>1 N. Dondero</p> <p>2 A. Correct.</p> <p>3 Q. Okay.</p> <p>4 A. I'm only speaking for these 13.</p> <p>5 Q. Okay. Do you recall whose idea</p> <p>6 it was to enter into each of the</p> <p>7 agreements?</p> <p>8 A. It was Jim's suggestion.</p> <p>9 Q. Okay. And did he call you to</p> <p>10 make the suggestion?</p> <p>11 A. Yes. At least one, if not two of</p> <p>12 the agreements were verbal or at least</p> <p>13 started verbally. And one I remember was</p> <p>14 in person.</p> <p>15 Q. Okay. Did you ever have any</p> <p>16 concerns that your brother might have a</p> <p>17 conflict of interest since he controlled</p> <p>18 both the borrower and the lender under each</p> <p>19 of these transactions?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 A. No.</p> <p>23 Q. Did it ever occur to you that</p> <p>24 your brother might have a conflict of</p> <p>25 interest since he controlled both the</p>

<p style="text-align: right;">Page 190</p> <p>1 N. Dondero</p> <p>2 borrower and the lender in each of these</p> <p>3 transactions?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. I'm sorry, I thought I answered.</p> <p>7 No.</p> <p>8 Q. Yeah, the first question was</p> <p>9 whether you had any concerns. And the</p> <p>10 second question was did it ever occur to</p> <p>11 you.</p> <p>12 Did you understand that?</p> <p>13 A. I did.</p> <p>14 It didn't occur to me, and I</p> <p>15 didn't have any concern.</p> <p>16 Q. Okay. And I think you just</p> <p>17 mentioned that your recollection is that</p> <p>18 two of the agreements were reached on the</p> <p>19 telephone, and one was reached in person;</p> <p>20 is that right?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. The agreement that was</p> <p>23 reached in person, where were you?</p> <p>24 A. Florida.</p> <p>25 Q. Where at?</p>	<p style="text-align: right;">Page 191</p> <p>1 N. Dondero</p> <p>2 A. My house in Vero Beach.</p> <p>3 Q. Was anybody else present during</p> <p>4 this discussion?</p> <p>5 A. Jim's kids, underage. My father,</p> <p>6 who's elderly. Family.</p> <p>7 Q. Do you have any reason to believe</p> <p>8 that anybody was aware of the substance of</p> <p>9 the discussion that you had with your</p> <p>10 brother concerning the agreement?</p> <p>11 A. No.</p> <p>12 Q. The two other conversations that</p> <p>13 you had on the phone, do you recall whether</p> <p>14 any person participated in those</p> <p>15 discussions other than your brother and</p> <p>16 yourself?</p> <p>17 A. No one else participated.</p> <p>18 Q. Out of the three agreements that</p> <p>19 you entered into, do you recall whether it</p> <p>20 was the first, second, or third that was</p> <p>21 entered into during a face-to-face meeting?</p> <p>22 A. To the best of my recollection,</p> <p>23 it would have been the end of '18,</p> <p>24 beginning of '19.</p> <p>25 Q. Were there any conversations –</p>
<p style="text-align: right;">Page 192</p> <p>1 N. Dondero</p> <p>2 withdrawn.</p> <p>3 So there were three agreements;</p> <p>4 is that correct?</p> <p>5 A. Through this discussion?</p> <p>6 Q. Yes.</p> <p>7 A. There are three agreements, yes.</p> <p>8 Q. And all three agreements are oral</p> <p>9 agreements, correct?</p> <p>10 A. They're all oral. One in person</p> <p>11 and two on the phone, yes.</p> <p>12 Q. Okay. Were there any</p> <p>13 communications concerning the scope or term</p> <p>14 or terms of the proposed agreement that</p> <p>15 took place before the day on which the</p> <p>16 agreements were entered into?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. I just want to know if there were</p> <p>21 any conversations or communications that</p> <p>22 occurred prior to the entry of the three</p> <p>23 agreements.</p> <p>24 A. There could have been, John.</p> <p>25 Q. I know there could have been.</p>	<p style="text-align: right;">Page 193</p> <p>1 N. Dondero</p> <p>2 I'm asking what you remember.</p> <p>3 A. I don't – at this time, I don't</p> <p>4 know.</p> <p>5 Q. Okay. Do you have any reason to</p> <p>6 believe, as you sit here right now, that</p> <p>7 there were any communications that occurred</p> <p>8 prior to the three days in which you</p> <p>9 entered into the three oral agreements?</p> <p>10 A. There could have been.</p> <p>11 Q. I appreciate that. I'm asking if</p> <p>12 you have any recollection of any such</p> <p>13 communications.</p> <p>14 A. I'm not sure at this time, John.</p> <p>15 Q. Were any of the oral agreements</p> <p>16 ever the subject of negotiation?</p> <p>17 A. I don't understand what you're</p> <p>18 asking.</p> <p>19 Q. Why don't you tell me what the</p> <p>20 conversations were that led to each of the</p> <p>21 agreements to the best that you can recall.</p> <p>22 A. The conversations with my brother</p> <p>23 that took place towards the end of each of</p> <p>24 the years that we're discussing, they</p> <p>25 started as general conversations about</p>

<p style="text-align: right;">Page 194</p> <p>1 N. Dondero</p> <p>2 business, about work. And Jim would bring</p> <p>3 up the loans that were done earlier in the</p> <p>4 year.</p> <p>5 He had stated in the conversation</p> <p>6 that he thought he was undercompensated for</p> <p>7 the work that he does and the time that he</p> <p>8 puts in. And he wanted those loans to be</p> <p>9 forgiven if any of the three portfolio</p> <p>10 companies that we talked about monetized at</p> <p>11 a higher value.</p> <p>12 Q. And you agreed with that?</p> <p>13 A. Well, it was -- yes, I did agree</p> <p>14 with that proposal. I thought it was a</p> <p>15 win-win for everybody.</p> <p>16 Q. Did you ever propose any</p> <p>17 alternative to the proposal that your</p> <p>18 brother made that you just described?</p> <p>19 A. I did not.</p> <p>20 Q. Can you identify any provision of</p> <p>21 any of the agreements that you negotiated</p> <p>22 with your brother?</p> <p>23 A. I didn't negotiate, but Jim had</p> <p>24 concern, and rightfully so, that he would</p> <p>25 put in the work and the time and the effort</p>	<p style="text-align: right;">Page 195</p> <p>1 N. Dondero</p> <p>2 to increase the value of any of those</p> <p>3 portfolio companies and that factors that</p> <p>4 you mention you beyond his control might</p> <p>5 cause them to be sold at a value under the</p> <p>6 price that was paid for them and this deal</p> <p>7 would not happen.</p> <p>8 So hence, that part of the deal</p> <p>9 came up, but I don't know if I'd consider</p> <p>10 it a negotiation.</p> <p>11 MR. MORRIS: Okay. I'm going to</p> <p>12 move to strike.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. And I'm just going to ask you if</p> <p>15 you can identify any provision of any of</p> <p>16 the agreements that you recall being the</p> <p>17 subject of negotiation?</p> <p>18 A. I don't recall any part being a</p> <p>19 negotiation.</p> <p>20 Q. Who identified the portfolio</p> <p>21 companies that were the subject of each</p> <p>22 agreement?</p> <p>23 A. Jim.</p> <p>24 Q. Did you ask your brother why he</p> <p>25 selected those companies?</p>
<p style="text-align: right;">Page 196</p> <p>1 N. Dondero</p> <p>2 A. No.</p> <p>3 Q. Do you know why your brother</p> <p>4 selected those companies?</p> <p>5 A. I do not.</p> <p>6 Q. Did you ever suggest that</p> <p>7 different portfolio companies should be</p> <p>8 used?</p> <p>9 A. I did not.</p> <p>10 Q. Did you ask him if Highland had</p> <p>11 any other portfolio companies?</p> <p>12 A. I don't know.</p> <p>13 Q. And your brother is the person</p> <p>14 who proposed that all of the notes would be</p> <p>15 forgiven if one of the three portfolio</p> <p>16 companies was sold for greater than cost;</p> <p>17 is that right?</p> <p>18 A. That's correct.</p> <p>19 Q. Do you know whether your brother</p> <p>20 had a duty to maximize value at the time</p> <p>21 that you entered into the agreements with</p> <p>22 him?</p> <p>23 A. I don't know.</p> <p>24 Q. Did you ever ask anybody prior to</p> <p>25 entering into any of the agreements whether</p>	<p style="text-align: right;">Page 197</p> <p>1 N. Dondero</p> <p>2 your brother already had a duty to maximize</p> <p>3 value?</p> <p>4 A. I did not.</p> <p>5 Q. Did you ever make a</p> <p>6 counterproposal to the term of the</p> <p>7 agreement that said all of the notes would</p> <p>8 be forgiven if one of the portfolio</p> <p>9 companies was sold for greater than cost?</p> <p>10 A. I'm sorry, John. Once again, the</p> <p>11 question, please?</p> <p>12 Q. Sure.</p> <p>13 Did you or Dugaboy ever make a</p> <p>14 counterproposal to the provision in the</p> <p>15 agreements that all of the notes would be</p> <p>16 forgiven if one of the portfolio companies</p> <p>17 was sold above cost?</p> <p>18 A. Wasn't that his proposal? Jim's</p> <p>19 proposal?</p> <p>20 Q. It was his proposal. I think</p> <p>21 you've testified to that. And I'm asking</p> <p>22 you if you or Dugaboy ever made a</p> <p>23 counterproposal with respect to that</p> <p>24 particular provision?</p> <p>25 A. No.</p>

<p style="text-align: right;">Page 198</p> <p>1 N. Dondero</p> <p>2 Q. Did you ever consider requiring a</p> <p>3 higher threshold other than having a sale</p> <p>4 above cost for the triggering of the</p> <p>5 condition subsequent?</p> <p>6 A. No.</p> <p>7 Q. Was there any part of your</p> <p>8 brother's proposal that you rejected?</p> <p>9 A. No.</p> <p>10 Q. Was there any part of your</p> <p>11 brother's proposal that Dugaboy rejected?</p> <p>12 A. No.</p> <p>13 Q. Is there any aspect of any of the</p> <p>14 agreements that incorporates a proposal or</p> <p>15 idea that you or Dugaboy made?</p> <p>16 MS. DEITSCH-PEREZ: Object to the</p> <p>17 form.</p> <p>18 A. No.</p> <p>19 Q. Now do you recall that paragraph</p> <p>20 82 also provides that all of the notes</p> <p>21 would be forgiven if any of the portfolio</p> <p>22 companies was sold on a basis out of Jim</p> <p>23 Dondero's control?</p> <p>24 A. Yes.</p> <p>25 Q. Whose idea was it to include that</p>	<p style="text-align: right;">Page 199</p> <p>1 N. Dondero</p> <p>2 provision in the agreement?</p> <p>3 A. I thought I already stated that.</p> <p>4 That Jim had concerns. That was Jim's</p> <p>5 proposal.</p> <p>6 Q. Okay. Did you or Dugaboy reject</p> <p>7 that proposal?</p> <p>8 A. We did not.</p> <p>9 Q. Did you push back on that</p> <p>10 proposal at all?</p> <p>11 A. No.</p> <p>12 Q. Did either you or Dugaboy make</p> <p>13 any counterproposal to that aspect of the</p> <p>14 agreement?</p> <p>15 A. No.</p> <p>16 Q. Do you understand that James</p> <p>17 Seery is in control of the portfolio</p> <p>18 companies subject to the agreement?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I didn't know that.</p> <p>22 Q. Are you aware that your brother</p> <p>23 no longer controls the portfolio companies</p> <p>24 that were the subject of the agreement?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 200</p> <p>1 N. Dondero</p> <p>2 Q. So you're aware that somebody</p> <p>3 other than your brother may sell Highland's</p> <p>4 interest in the portfolio companies; is</p> <p>5 that right?</p> <p>6 A. Correct.</p> <p>7 Q. So under the agreements that you</p> <p>8 caused Dugaboy to enter into on behalf of</p> <p>9 Highland, all of the notes that were</p> <p>10 subject to the agreements will be forgiven</p> <p>11 at the moment somebody other than your</p> <p>12 brother sells one of the portfolio</p> <p>13 companies.</p> <p>14 Do I have that right?</p> <p>15 A. I'm sorry, John. Once again?</p> <p>16 Q. Okay. I just want to understand,</p> <p>17 you know, the import of the agreements that</p> <p>18 you've described. So let me try again.</p> <p>19 Under the agreements that you</p> <p>20 caused Dugaboy to enter into on behalf of</p> <p>21 Highland, all of the notes that are subject</p> <p>22 to the agreements will be forgiven the</p> <p>23 moment that any of those three portfolio</p> <p>24 companies are sold.</p> <p>25 Do I have that right?</p>	<p style="text-align: right;">Page 201</p> <p>1 N. Dondero</p> <p>2 A. Correct, you have that right.</p> <p>3 Q. Why did you agree, as the trustee</p> <p>4 of Dugaboy, that all of the notes subject</p> <p>5 to the agreements would be forgiven if any</p> <p>6 of the subject portfolio companies was sold</p> <p>7 on a basis outside of your brother's</p> <p>8 control?</p> <p>9 A. I agreed to that provision of the</p> <p>10 agreement because – and I believe I stated</p> <p>11 this – Jim had concerns about doing the</p> <p>12 work and the effort and putting the time in</p> <p>13 to build up any one of those three</p> <p>14 portfolio companies and then having</p> <p>15 somebody outside of his control sell it for</p> <p>16 less than a monetized value that would</p> <p>17 allow the notes to be forgiven.</p> <p>18 Q. But there's no component of the</p> <p>19 agreement that will avoid the forgiveness</p> <p>20 of the notes depending on the price at</p> <p>21 which the assets were sold, correct?</p> <p>22 A. John, there's no provision of the</p> <p>23 agreement what?</p> <p>24 Q. If somebody were to sell the</p> <p>25 portfolio assets for a substantial price</p>

<p style="text-align: right;">Page 202</p> <p>1 N. Dondero</p> <p>2 above cost –</p> <p>3 A. Above cost?</p> <p>4 Q. Above cost.</p> <p>5 – would the notes still be</p> <p>6 forgiven?</p> <p>7 A. Yes, of course.</p> <p>8 Q. And if the portfolio companies</p> <p>9 are sold at a price substantially below</p> <p>10 cost, will the notes still be forgiven?</p> <p>11 A. They will if they're sold by</p> <p>12 somebody that's not my brother, that's not</p> <p>13 Jim.</p> <p>14 Q. Okay.</p> <p>15 A. If somebody comes in or – who</p> <p>16 did you say, that gentleman that now has</p> <p>17 control of them, if he decides to sell them</p> <p>18 below cost, the notes are still forgiven.</p> <p>19 Q. And if he decides to sell them</p> <p>20 above cost, the notes are forgiven, right?</p> <p>21 A. That is correct, but Highland</p> <p>22 would benefit.</p> <p>23 Q. How does Highland benefit because</p> <p>24 some third party sells the assets?</p> <p>25 A. Okay. That's not what I said.</p>	<p style="text-align: right;">Page 203</p> <p>1 N. Dondero</p> <p>2 But to answer your question, they</p> <p>3 wouldn't – if it got sold for less than</p> <p>4 the value of them, then Highland wouldn't</p> <p>5 benefit. But that wouldn't be in Jim's</p> <p>6 control.</p> <p>7 Q. Did you expect Highland to</p> <p>8 benefit if the portfolio companies were</p> <p>9 sold on a basis outside of Mr. Dondero's</p> <p>10 control?</p> <p>11 A. I have no idea, John.</p> <p>12 Q. Did you have any idea – did you</p> <p>13 or Dugaboy have any idea when you entered</p> <p>14 into the agreement if Highland would</p> <p>15 benefit from the sale of the portfolio</p> <p>16 companies on a basis outside of</p> <p>17 Mr. Dondero's control?</p> <p>18 A. I wouldn't know that.</p> <p>19 Q. Okay. Now if Jim sold one of</p> <p>20 those portfolio companies for a dollar</p> <p>21 above cost, all of the notes would have</p> <p>22 been forgiven, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And did he have the ability to</p> <p>25 sell any of the portfolio companies at the</p>
<p style="text-align: right;">Page 204</p> <p>1 N. Dondero</p> <p>2 time you entered into the agreements?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 MR. MORRIS: Withdrawn.</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Did you and Dugaboy understand</p> <p>8 that Mr. Dondero had the ability to sell</p> <p>9 any of the portfolio companies at the time</p> <p>10 you entered into the agreements?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. If your brother –</p> <p>13 A. That was my understanding.</p> <p>14 Q. Okay. And if your brother sold</p> <p>15 one of those portfolio companies for a</p> <p>16 dollar above cost, what benefit would</p> <p>17 Highland receive if the consequence of that</p> <p>18 was the forgiveness of more than \$60</p> <p>19 million in principal amount of promissory</p> <p>20 notes?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. John?</p> <p>24 Q. Yes?</p> <p>25 A. Oh.</p>	<p style="text-align: right;">Page 205</p> <p>1 N. Dondero</p> <p>2 Q. You can answer.</p> <p>3 A. That hasn't happened in a</p> <p>4 hypothetical. I don't have an opinion on</p> <p>5 that.</p> <p>6 Q. Well, you entered into the</p> <p>7 agreements, did you not?</p> <p>8 A. I did.</p> <p>9 Q. And you agreed on behalf of</p> <p>10 Dugaboy on behalf of the plaintiff that if</p> <p>11 Jim sold one of the portfolio companies at</p> <p>12 a dollar above cost, all of the notes would</p> <p>13 be forgiven, correct?</p> <p>14 A. I entered into the agreement for</p> <p>15 Dugaboy that if, you're right, any of the</p> <p>16 portfolio companies monetized higher,</p> <p>17 right, the notes would be forgiven. But –</p> <p>18 and I thought about your scenario, but I</p> <p>19 also thought about it could be \$100</p> <p>20 million. We don't know. This is all</p> <p>21 hypothetical.</p> <p>22 Q. It's actually not hypothetical</p> <p>23 because the term of your agreement was that</p> <p>24 he could have sold any of the three</p> <p>25 portfolio companies at a dollar above cost</p>

<p style="text-align: right;">Page 206</p> <p>1 N. Dondero</p> <p>2 and received in return the forgiveness of</p> <p>3 all of these notes, right?</p> <p>4 A. Correct.</p> <p>5 Q. Okay. As the trustee of Dugaboy</p> <p>6 who entered into the agreement on behalf of</p> <p>7 Highland, what benefit would there be to</p> <p>8 Highland if the portfolio companies were</p> <p>9 sold at any price less than the aggregate</p> <p>10 principal amount of the notes?</p> <p>11 A. Less than?</p> <p>12 Q. Let's say it was sold for \$50</p> <p>13 million above cost, then Highland would</p> <p>14 have had to forgiven more than \$60 million</p> <p>15 of notes, correct?</p> <p>16 A. Correct.</p> <p>17 Q. How would Highland benefit by</p> <p>18 having an asset sold \$50 million above cost</p> <p>19 where the consequence was that they would</p> <p>20 forgive more than \$50 million of money that</p> <p>21 was owed to it?</p> <p>22 A. Well, I looked at it differently,</p> <p>23 John. And I thought it benefitted Highland</p> <p>24 at the time because money didn't come out</p> <p>25 of Highland's balance sheets to increase</p>	<p style="text-align: right;">Page 207</p> <p>1 N. Dondero</p> <p>2 Jim's salary. They received interest in</p> <p>3 payment on the loans. We don't know when</p> <p>4 and if the trigger is going to come into</p> <p>5 play that the loans would be forgiven.</p> <p>6 Even as we sit here today, 20-plus million</p> <p>7 has been paid on the loan.</p> <p>8 Q. Can you explain why your brother</p> <p>9 is making payments on demand notes after</p> <p>10 entering into the agreements with you?</p> <p>11 A. It's my limited understanding</p> <p>12 that he's made payments when whatever</p> <p>13 entity needs money.</p> <p>14 Q. And what is the basis for that</p> <p>15 understanding?</p> <p>16 A. Common sense. I don't know,</p> <p>17 John.</p> <p>18 THE WITNESS: And I hate to do</p> <p>19 this, but I know when you – can you</p> <p>20 come to a place of a break in the near</p> <p>21 future whenever is convenient in your</p> <p>22 questions there, please?</p> <p>23 MR. MORRIS: Sure.</p> <p>24 BY MR. MORRIS:</p> <p>25 Q. What is the basis for saying that</p>
<p style="text-align: right;">Page 208</p> <p>1 N. Dondero</p> <p>2 your brother paid back loans at times that</p> <p>3 Highland needed the money – withdrawn.</p> <p>4 Is it your testimony that your</p> <p>5 brother made payments against the loans</p> <p>6 after entering into the agreements with you</p> <p>7 because Highland needed the money?</p> <p>8 A. That's my belief, John.</p> <p>9 Q. Okay. And what is the basis for</p> <p>10 that belief?</p> <p>11 A. I don't have one except I know</p> <p>12 how my brother works.</p> <p>13 Q. Do you know that your brother</p> <p>14 caused the borrowers under the promissory</p> <p>15 notes to make payments against those notes</p> <p>16 after entering into the agreements with</p> <p>17 you?</p> <p>18 A. I do not.</p> <p>19 Q. Did you ever ask anybody?</p> <p>20 A. I did not.</p> <p>21 Q. And I think we covered this</p> <p>22 earlier, but I just want to try and cover</p> <p>23 it quickly before we take the break.</p> <p>24 At the time you entered into each</p> <p>25 of the agreements, neither you nor Dugaboy</p>	<p style="text-align: right;">Page 209</p> <p>1 N. Dondero</p> <p>2 had any understanding of the nature of</p> <p>3 Highland's interest in each of the</p> <p>4 portfolio companies, correct?</p> <p>5 A. That would be correct, yes.</p> <p>6 Q. And at the time the three</p> <p>7 agreements were entered into, neither you</p> <p>8 nor Dugaboy had any understanding as to</p> <p>9 Highland's cost for acquiring its interest</p> <p>10 in each of the three portfolio companies,</p> <p>11 correct?</p> <p>12 A. Yes, that is correct.</p> <p>13 Q. And at the time each of these</p> <p>14 three agreements were entered into, neither</p> <p>15 you nor Dugaboy had any information as to</p> <p>16 the value of Highland's interest in any of</p> <p>17 the portfolio companies, correct?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 MR. MORRIS: You can answer.</p> <p>21 A. I'm sorry, John, can you repeat</p> <p>22 the question, please?</p> <p>23 Q. At the time that you entered into</p> <p>24 each of these three agreements, neither you</p> <p>25 nor Dugaboy had any information concerning</p>

<p>Page 210</p> <p>1 N. Dondero</p> <p>2 the value of Highland's interest in the</p> <p>3 three portfolio companies, correct?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. That's correct, John.</p> <p>7 Q. And at the time that you entered</p> <p>8 into these three agreements, neither you</p> <p>9 nor Dugaboy knew whether the value of</p> <p>10 Highland's interest in the three portfolio</p> <p>11 companies was more or less than the cost of</p> <p>12 acquisition, correct?</p> <p>13 A. That's correct.</p> <p>14 MR. MORRIS: We can take that</p> <p>15 break now if you'd like.</p> <p>16 MR. DRAPER: John, this is</p> <p>17 Douglas.</p> <p>18 How much more do you think you</p> <p>19 have?</p> <p>20 THE VIDEOGRAPHER: The time is</p> <p>21 2:41. We are going off the record.</p> <p>22 (Recess is taken.)</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 2:57. We are back on the record.</p> <p>25 MR. MORRIS: Can we put back up</p>	<p>Page 211</p> <p>1 N. Dondero</p> <p>2 paragraph 82 from Mr. Dondero's answer</p> <p>3 to the Amended Complaint?</p> <p>4 (Document review.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Ms. Dondero, can you hear me?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Do you see in the middle</p> <p>9 of paragraph 82 it talks about the purpose</p> <p>10 of the agreement?</p> <p>11 A. Um-hmm.</p> <p>12 Q. And do you see where it says that</p> <p>13 Jim Dondero, quote, "was otherwise</p> <p>14 underpaid compared to reasonable</p> <p>15 compensation levels in the industry"?</p> <p>16 A. I see that.</p> <p>17 Q. At the time that you caused</p> <p>18 Dugaboy to enter into the three agreements</p> <p>19 on behalf of Highland, did you believe that</p> <p>20 James Dondero was underpaid compared to</p> <p>21 reasonable compensation levels in the</p> <p>22 industry?</p> <p>23 A. Yes, I believed what he told me.</p> <p>24 Q. Okay. Did you have any basis for</p> <p>25 believing that he was underpaid compared to</p>
<p>Page 212</p> <p>1 N. Dondero</p> <p>2 reasonable compensation levels in the</p> <p>3 industry other than what your brother told</p> <p>4 you?</p> <p>5 A. No.</p> <p>6 Q. Okay. Did Dugaboy have any basis</p> <p>7 for believing that your brother was</p> <p>8 underpaid compared to reasonable</p> <p>9 compensation levels in the industry other</p> <p>10 than what your brother said?</p> <p>11 A. Not that I'm aware of.</p> <p>12 Q. Prior to entering into each of</p> <p>13 these three agreements, did you or Dugaboy</p> <p>14 make any effort to ascertain whether your</p> <p>15 brother was underpaid compared to</p> <p>16 reasonable compensation levels in the</p> <p>17 industry?</p> <p>18 A. Not that I remember.</p> <p>19 Q. At the time that you entered into</p> <p>20 these agreements, neither you nor Dugaboy</p> <p>21 knew the total compensation package that</p> <p>22 Mr. Dondero received from Highland in any</p> <p>23 calendar year, correct?</p> <p>24 A. John, can you ask that question</p> <p>25 again, please?</p>	<p>Page 213</p> <p>1 N. Dondero</p> <p>2 Q. Yes. I'd be happy to.</p> <p>3 At the time that you caused</p> <p>4 Dugaboy to enter into each of the three</p> <p>5 agreements that you've described, neither</p> <p>6 you nor Dugaboy made any effort to</p> <p>7 determine your brother was underpaid</p> <p>8 compared to reasonable compensation levels</p> <p>9 in the industry, correct?</p> <p>10 A. That's correct.</p> <p>11 Q. And at the time that you caused</p> <p>12 Dugaboy to enter into the agreements,</p> <p>13 neither you nor Dugaboy knew how much</p> <p>14 compensation your brother received from</p> <p>15 Highland in any particular year, correct?</p> <p>16 MS. DEITSCH-PEREZ: You mean the</p> <p>17 exact number?</p> <p>18 MR. MORRIS: I mean general</p> <p>19 number. Any number.</p> <p>20 A. Okay. I think we spoke about</p> <p>21 this earlier. I had a general number on</p> <p>22 salary.</p> <p>23 Q. Correct.</p> <p>24 And now I'm asking about total</p> <p>25 compensation, including deferred</p>

<p style="text-align: right;">Page 214</p> <p>1 N. Dondero</p> <p>2 compensation, including any profit sharing,</p> <p>3 including any distributions, total</p> <p>4 compensation, right?</p> <p>5 Do you see that this is referring</p> <p>6 not to salary but to compensation?</p> <p>7 A. I do.</p> <p>8 Q. Okay.</p> <p>9 A. And I would not have known that.</p> <p>10 Q. Okay. So let me ask the question</p> <p>11 again just to make sure it's clear.</p> <p>12 At the time that you caused</p> <p>13 Dugaboy to enter into each of these three</p> <p>14 agreements, neither you nor Dugaboy knew</p> <p>15 what Mr. Dondero's compensation was from</p> <p>16 Highland for any particular year, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And at the time that you caused</p> <p>19 Dugaboy to enter into the three agreements,</p> <p>20 neither you nor Dugaboy ever asked anybody</p> <p>21 what Mr. Dondero's compensation was from</p> <p>22 Highland for any particular year, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And at the time you caused</p> <p>25 Dugaboy to enter into these three</p>	<p style="text-align: right;">Page 215</p> <p>1 N. Dondero</p> <p>2 agreements, neither you nor Dugaboy made</p> <p>3 any effort to try to ascertain what</p> <p>4 Mr. Dondero's compensation from Highland</p> <p>5 was in any particular year, correct?</p> <p>6 A. That's correct.</p> <p>7 Q. Okay. Did you or Dugaboy ever</p> <p>8 conduct any analysis of what reasonable</p> <p>9 compensation levels in the industry were?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Did Mr. Dondero ever tell you</p> <p>12 what he thought reasonable compensation</p> <p>13 levels were in the industry?</p> <p>14 A. John, I vaguely remember him</p> <p>15 throwing out examples of other people in</p> <p>16 his position and the astronomical money</p> <p>17 that they make. I just don't remember</p> <p>18 their names or the companies.</p> <p>19 Q. Okay. Did you or Dugaboy make</p> <p>20 any effort at any time prior to entering</p> <p>21 into the three agreements to determine what</p> <p>22 reasonable compensation levels were in the</p> <p>23 industry?</p> <p>24 A. No.</p> <p>25 Q. Did you or Dugaboy reach any</p>
<p style="text-align: right;">Page 216</p> <p>1 N. Dondero</p> <p>2 conclusions prior to entering into the</p> <p>3 agreements as to whether Mr. Dondero was</p> <p>4 underpaid compared to reasonable</p> <p>5 compensation levels in the industry?</p> <p>6 A. The first part of that, John?</p> <p>7 The first part of your question?</p> <p>8 Q. Did you or Dugaboy reach any</p> <p>9 conclusions prior to entering into the</p> <p>10 three agreements as to whether your brother</p> <p>11 in fact was underpaid compared to</p> <p>12 reasonable compensation levels in the</p> <p>13 industry?</p> <p>14 A. Yes, I came to the conclusion</p> <p>15 that he was based on what he told me.</p> <p>16 Q. Okay. And you had no other</p> <p>17 information upon which you relied to reach</p> <p>18 your conclusion that he was underpaid</p> <p>19 except for the information that your</p> <p>20 brother provided to you, correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. And other than -- okay.</p> <p>23 MR. MORRIS: We can take that</p> <p>24 down. Thank you.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 217</p> <p>1 N. Dondero</p> <p>2 Q. Ms. Dondero, do you know if the</p> <p>3 terms of any of the agreements were ever</p> <p>4 reduced to writing?</p> <p>5 A. I didn't put them in writing.</p> <p>6 That's all I can speak to.</p> <p>7 Q. Have you ever seen the terms of</p> <p>8 any of the agreements in writing?</p> <p>9 A. I have not.</p> <p>10 Q. Did anyone ever tell you that the</p> <p>11 terms of the agreements were written down</p> <p>12 anywhere?</p> <p>13 A. Not that I recall.</p> <p>14 Q. Did you or Dugaboy ever ask</p> <p>15 anyone if the terms of the agreements were</p> <p>16 written down anywhere?</p> <p>17 A. Not that I remember.</p> <p>18 Q. Did you believe that these</p> <p>19 agreements were important at the time that</p> <p>20 you caused Dugaboy to enter into them?</p> <p>21 A. Yes.</p> <p>22 Q. Why did you think that these</p> <p>23 agreements were important?</p> <p>24 A. I think I thought they were</p> <p>25 important because they gave Highland the</p>

<p style="text-align: right;">Page 218</p> <p>1 N. Dondero</p> <p>2 chance to motivate and get Jim – or give</p> <p>3 Jim an extra incentive to make the</p> <p>4 portfolio companies into something really</p> <p>5 magnanimous, which would have been great</p> <p>6 for Highland and Jim.</p> <p>7 Q. When you entered into the</p> <p>8 agreements, did you intend that they would</p> <p>9 be binding on Highland?</p> <p>10 A. That was my belief, yes.</p> <p>11 Q. Did it ever occur to you that you</p> <p>12 might want to write down the terms of these</p> <p>13 important agreements?</p> <p>14 A. Honestly, it didn't come to mind,</p> <p>15 no.</p> <p>16 Q. Did you ever tell anybody in the</p> <p>17 world prior to the petition date that you</p> <p>18 had entered into these three agreements</p> <p>19 with your brother?</p> <p>20 A. Besides Melissa, who knew, I</p> <p>21 don't remember anyone else offhand that I</p> <p>22 would have discussed them with.</p> <p>23 Q. How did Melissa know?</p> <p>24 A. Pardon?</p> <p>25 Q. Are you referring to Melissa</p>	<p style="text-align: right;">Page 219</p> <p>1 N. Dondero</p> <p>2 Schroth?</p> <p>3 A. Correct.</p> <p>4 Q. Why do you think that she knew?</p> <p>5 A. I have a vague memory of</p> <p>6 discussing it with her.</p> <p>7 Q. What do you remember about that</p> <p>8 vague memory?</p> <p>9 A. It was in regards to Dugaboy.</p> <p>10 She is one of my main contact people, and I</p> <p>11 think it was more a recap conversation.</p> <p>12 Q. And what did she say?</p> <p>13 A. She just listened, made a note, I</p> <p>14 assume, made a mental note.</p> <p>15 Q. Do you recall, did this occur in</p> <p>16 a telephone conversation?</p> <p>17 A. Yes, I believe it did.</p> <p>18 Q. Okay. Do you recall when that</p> <p>19 conversation took place?</p> <p>20 A. I do not.</p> <p>21 Q. Do you recall if it was before or</p> <p>22 after the petition date?</p> <p>23 A. I do not.</p> <p>24 Q. Did she ask any questions?</p> <p>25 A. Not that I recall.</p>
<p style="text-align: right;">Page 220</p> <p>1 N. Dondero</p> <p>2 Q. Did you tell her which notes were</p> <p>3 the subject of the agreements?</p> <p>4 A. The conversation was not that</p> <p>5 detailed.</p> <p>6 Q. Well, if she didn't ask any</p> <p>7 questions and she didn't say anything that</p> <p>8 you recall in response, can you recall</p> <p>9 everything you said to Ms. Schroth during</p> <p>10 this conversation?</p> <p>11 A. I don't remember, John, the</p> <p>12 specifics.</p> <p>13 Q. Do you remember anything about</p> <p>14 the conversation at all?</p> <p>15 A. I just remember them coming up in</p> <p>16 conversation.</p> <p>17 Q. You remember what coming up?</p> <p>18 A. The forgiveness of the loan.</p> <p>19 Q. Did she indicate to you that she</p> <p>20 knew about it already?</p> <p>21 A. I don't remember.</p> <p>22 Q. Did she express any surprise at</p> <p>23 what you told her?</p> <p>24 A. No, but I do remember her saying</p> <p>25 it was the great motivator.</p>	<p style="text-align: right;">Page 221</p> <p>1 N. Dondero</p> <p>2 Q. And you don't think your brother</p> <p>3 was otherwise motivated to sell one of</p> <p>4 three assets at a dollar above cost,</p> <p>5 correct?</p> <p>6 A. I never said –</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. I didn't say that.</p> <p>10 Q. Well, but that's what the</p> <p>11 agreement permitted, correct, that the</p> <p>12 notes would be forgiven if he sold an asset</p> <p>13 at a dollar above cost, right?</p> <p>14 MS. DEITSCH-PEREZ: Object to the</p> <p>15 form.</p> <p>16 A. John, at the time I entered into</p> <p>17 the agreement, I believe that they would be</p> <p>18 a motivator, an increased motivator.</p> <p>19 You met my brother, right? You</p> <p>20 know he's motivated.</p> <p>21 Q. It never would have occurred to</p> <p>22 me that he needed more motivation, but</p> <p>23 maybe that's just my view.</p> <p>24 A. It's increased motivation when</p> <p>25 there's money on the line.</p>

<p style="text-align: right;">Page 222</p> <p>1 N. Dondero</p> <p>2 Q. But how does it motivate him when</p> <p>3 he can recover the benefits of the</p> <p>4 agreement regardless of how much above cost</p> <p>5 the asset is sold?</p> <p>6 A. Okay. I'm sorry, John, one more</p> <p>7 time, please, the question?</p> <p>8 Q. How does it motivate him when he</p> <p>9 will reap the benefits of the agreement if</p> <p>10 he sells -- withdrawn.</p> <p>11 How does he get motivated under</p> <p>12 an agreement whereby he will get the</p> <p>13 benefit of the forgiveness of over \$60</p> <p>14 million of notes without regard to how much</p> <p>15 above cost he sells one of three assets?</p> <p>16 A. Okay. John, when I entered into</p> <p>17 these, he was still at the helm of</p> <p>18 Highland.</p> <p>19 Q. Correct.</p> <p>20 A. So if he would have monetized</p> <p>21 them at a really high value, he would have</p> <p>22 benefitted from his interest, beneficial</p> <p>23 interest in Highland.</p> <p>24 Q. Under the terms of the agreement,</p> <p>25 are you able to identify how Mr. Dondero</p>	<p style="text-align: right;">Page 223</p> <p>1 N. Dondero</p> <p>2 would have been motivated whether --</p> <p>3 withdrawn.</p> <p>4 It doesn't matter under the</p> <p>5 agreements that you entered into on behalf</p> <p>6 of Dugaboy how much above cost the assets</p> <p>7 are sold before Mr. Dondero could reap the</p> <p>8 benefits of the agreement, correct?</p> <p>9 A. Correct.</p> <p>10 Q. And you could have, but you</p> <p>11 didn't, demand that the notes would be</p> <p>12 forgiven only if he sold the assets at --</p> <p>13 I'm just going to pick a number -- 50</p> <p>14 percent more than cost, right?</p> <p>15 A. Anything is possible.</p> <p>16 Q. But you didn't -- anything is</p> <p>17 possible, but the fact is that neither you</p> <p>18 nor Dugaboy made any proposal that would</p> <p>19 tie the benefits that Mr. Dondero wanted to</p> <p>20 the amount of gain that was to be recovered</p> <p>21 on behalf of Highland, correct?</p> <p>22 A. Correct. I didn't look at it the</p> <p>23 way you are, correct.</p> <p>24 Q. And so when you speak of</p> <p>25 motivation under the terms of the agreement</p>
<p style="text-align: right;">Page 224</p> <p>1 N. Dondero</p> <p>2 that you entered into on behalf of</p> <p>3 Highland, Mr. Dondero would be indifferent</p> <p>4 whether the asset was sold at 1 percent</p> <p>5 above cost, at 10 percent above cost, more</p> <p>6 than the face amount of the promissory</p> <p>7 note, right? There's no relationship</p> <p>8 between the gain to Highland and the</p> <p>9 benefit to Mr. Dondero, correct?</p> <p>10 A. You mean now when he's not at the</p> <p>11 helm of Highland, John?</p> <p>12 Q. No, I mean -- no. Let me try</p> <p>13 again.</p> <p>14 At the moment you entered into</p> <p>15 the agreement --</p> <p>16 A. Right.</p> <p>17 Q. -- if a subsequent event</p> <p>18 occurred, you and your brother knew that he</p> <p>19 would receive more than \$6 million in value</p> <p>20 through the forgiveness of the notes,</p> <p>21 correct?</p> <p>22 A. Correct.</p> <p>23 Q. But at the time that you entered</p> <p>24 into the agreements, neither you nor your</p> <p>25 brother knew what the economic benefit to</p>	<p style="text-align: right;">Page 225</p> <p>1 N. Dondero</p> <p>2 Highland would be because the asset hadn't</p> <p>3 been sold yet, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And it wasn't in the hands of a</p> <p>6 third party, correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And I think you may have</p> <p>9 testified to this earlier. If you did, I</p> <p>10 apologize. But do you know the aggregate</p> <p>11 amount that's due under each of the notes</p> <p>12 that are subject to the agreements that you</p> <p>13 entered into on behalf of Dugaboy?</p> <p>14 A. As of today's value or --</p> <p>15 Q. Let's start with today's value.</p> <p>16 A. Okay. The amount owed I believe</p> <p>17 per the lawsuit for all of them is just</p> <p>18 north of 50 million.</p> <p>19 Q. And were you aware at the time</p> <p>20 you entered into the agreements, the</p> <p>21 aggregate principal amount that was still</p> <p>22 due on the notes that were subject to the</p> <p>23 agreement?</p> <p>24 A. When I entered into the three</p> <p>25 agreements?</p>

<p style="text-align: right;">Page 226</p> <p>1 N. Dondero</p> <p>2 Q. Yes.</p> <p>3 A. The total for '17, '18, and '19</p> <p>4 combined was in the ballpark of 72 million,</p> <p>5 I believe.</p> <p>6 Q. And the difference between the</p> <p>7 principal amount that was due at the time</p> <p>8 that you entered into the agreements and</p> <p>9 the principal amount that's due today is</p> <p>10 the payments that were made in the</p> <p>11 intervening period.</p> <p>12 Do I have that right?</p> <p>13 A. I'm assuming payments and</p> <p>14 interest, sir, yes.</p> <p>15 Q. Okay. If the assets are sold</p> <p>16 now, what benefit will Highland receive</p> <p>17 relative to the forgiveness of the notes?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. The assets are now in the hands</p> <p>22 of a third party, right?</p> <p>23 A. Um-hmm. Correct.</p> <p>24 Q. Okay. And is it your</p> <p>25 understanding that if a third party sells</p>	<p style="text-align: right;">Page 227</p> <p>1 N. Dondero</p> <p>2 the assets that irrespective of the price</p> <p>3 at which it sold, the moment it's sold, the</p> <p>4 notes will be forgiven?</p> <p>5 A. That is my understanding.</p> <p>6 Q. So that if a third party were to</p> <p>7 sell the asset – withdrawn.</p> <p>8 So at the time that you entered</p> <p>9 into the agreements on behalf of Dugaboy,</p> <p>10 neither you nor Dugaboy had any</p> <p>11 understanding of what Highland's economic</p> <p>12 recovery would be if a third party sold any</p> <p>13 of the portfolio companies, correct?</p> <p>14 A. I wouldn't have known the future.</p> <p>15 That is correct.</p> <p>16 Q. Did you and Dugaboy – withdrawn.</p> <p>17 Did you and Dugaboy believe at</p> <p>18 the time that you entered into the</p> <p>19 agreements that Highland received</p> <p>20 reasonably equivalent value in exchange for</p> <p>21 the agreements?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. John, I repeat, I thought at the</p> <p>25 time I entered into the agreement, there</p>
<p style="text-align: right;">Page 228</p> <p>1 N. Dondero</p> <p>2 was a – that it was a good deal for both</p> <p>3 Jim and Highland, a win-win situation. I</p> <p>4 think we discussed this already.</p> <p>5 Q. Okay. But you didn't know the</p> <p>6 price at which Mr. Dondero would sell the</p> <p>7 asset that was subject to the condition</p> <p>8 subsequent, correct?</p> <p>9 A. John, correct, but I know my</p> <p>10 brother, and he's a financial guru, and I</p> <p>11 trusted in the fact that he would make them</p> <p>12 into something great.</p> <p>13 Q. Okay. But neither you nor</p> <p>14 Dugaboy could predict whether Highland</p> <p>15 would receive from the sale of the assets</p> <p>16 more or less than the principal and</p> <p>17 interest due under the notes, correct?</p> <p>18 A. You are correct; I could not</p> <p>19 predict what would happen.</p> <p>20 Q. Okay. Did Mr. Dondero express</p> <p>21 any reason to you why he thought the notes</p> <p>22 should be forgiven if the assets were sold</p> <p>23 by somebody other than himself?</p> <p>24 A. Okay. I'm sorry, John. Again?</p> <p>25 Q. Did Mr. Dondero give you any</p>	<p style="text-align: right;">Page 229</p> <p>1 N. Dondero</p> <p>2 reason as to why he believed he was</p> <p>3 entitled to the forgiveness of the notes</p> <p>4 simply because the assets were sold by</p> <p>5 somebody other than himself?</p> <p>6 A. I believe we touched on this</p> <p>7 already, but I will repeat it.</p> <p>8 His concern was that he put the</p> <p>9 time and effort and energy into the three</p> <p>10 portfolio companies and then some element</p> <p>11 beyond his control could come in and sell</p> <p>12 them at a loss after he had done all the</p> <p>13 work. And if we didn't have that provision</p> <p>14 in, his notes wouldn't be forgiven.</p> <p>15 Q. Did you ask him why he was</p> <p>16 concerned that some element beyond his</p> <p>17 control were to intervene to prevent him</p> <p>18 from selling the assets?</p> <p>19 A. I did not.</p> <p>20 Q. Did you ask him why that was even</p> <p>21 a possibility at the time that you entered</p> <p>22 into these three agreements?</p> <p>23 A. I did not. But knowing my</p> <p>24 brother, he looks at all sides of every</p> <p>25 situation.</p>

<p style="text-align: right;">Page 230</p> <p>1 N. Dondero</p> <p>2 Q. Okay. The notes that were issued</p> <p>3 by HCMS, HCRE, and NexPoint, can we refer</p> <p>4 to those for the next set of questions as</p> <p>5 the corporate notes?</p> <p>6 A. Okay.</p> <p>7 MS. DEITSCH-PEREZ: Can you read</p> <p>8 that back?</p> <p>9 MR. MORRIS: Sure.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Can we call the notes that were</p> <p>12 executed on behalf of HCMS, HCRE, and</p> <p>13 NexPoint as the corporate notes?</p> <p>14 MS. DEITSCH-PEREZ: You're</p> <p>15 including HCMFA in this?</p> <p>16 MR. MORRIS: No, I never said</p> <p>17 that.</p> <p>18 MS. DEITSCH-PEREZ: I thought you</p> <p>19 did. That's why I said -- I think you</p> <p>20 misspoke, but can you ask the question</p> <p>21 again.</p> <p>22 MR. MORRIS: I don't think so. I</p> <p>23 don't think so, but I'll say it for a</p> <p>24 third time.</p> <p>25 BY MR. MORRIS:</p>	<p style="text-align: right;">Page 231</p> <p>1 N. Dondero</p> <p>2 Q. Can we call the notes executed on</p> <p>3 behalf of HCMS, HCRE, and NexPoint as the</p> <p>4 corporate notes?</p> <p>5 MS. DEITSCH-PEREZ: Okay. Thank</p> <p>6 you. I think I was hearing S as F.</p> <p>7 Sorry.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Is that okay, Ms. Dondero?</p> <p>10 A. Yes, that's fine. Thank you.</p> <p>11 Q. Okay. And under the agreements,</p> <p>12 were the corporate notes to be forgiven as</p> <p>13 compensation to your brother or as</p> <p>14 compensation to the corporate obligors, the</p> <p>15 corporate borrowers?</p> <p>16 A. Deferred compensation for Jim.</p> <p>17 Q. So let me get this right.</p> <p>18 HCMS, HCRE, and NexPoint each</p> <p>19 borrow money from Highland and give</p> <p>20 Highland promissory notes in return.</p> <p>21 Do I have that right?</p> <p>22 A. I'm sorry, John. Just one more</p> <p>23 time, the question, please?</p> <p>24 Q. Each of HCMS, HCRE, and NexPoint</p> <p>25 borrowed money from Highland and gave</p>
<p style="text-align: right;">Page 232</p> <p>1 N. Dondero</p> <p>2 promissory notes in return, correct?</p> <p>3 A. Yes. That's my understanding.</p> <p>4 Q. And under the agreement that you</p> <p>5 entered into on behalf of Dugaboy, those</p> <p>6 corporate notes would be forgiven as</p> <p>7 compensation to your brother upon the</p> <p>8 condition -- upon the fulfillment of</p> <p>9 conditions subsequent, correct?</p> <p>10 A. That is correct.</p> <p>11 Q. So that the forgiveness of the</p> <p>12 corporate notes was, in your mind, the same</p> <p>13 thing as giving compensation to your</p> <p>14 brother, correct?</p> <p>15 MS. DEITSCH-PEREZ: Object to the</p> <p>16 form.</p> <p>17 A. They would be considered deferred</p> <p>18 compensation.</p> <p>19 Q. And they would be considered</p> <p>20 compensation to your brother, not</p> <p>21 compensation to the borrowers under each of</p> <p>22 the corporate notes, correct?</p> <p>23 A. That's how I understood it, yes.</p> <p>24 Q. Okay. So in your mind, when you</p> <p>25 entered into these agreements, it didn't</p>	<p style="text-align: right;">Page 233</p> <p>1 N. Dondero</p> <p>2 matter whether the notes were executed by</p> <p>3 your brother or any of these three</p> <p>4 corporate obligors; the cancellation of the</p> <p>5 notes would be a direct benefit for</p> <p>6 compensation purposes only to your brother,</p> <p>7 correct?</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: Do I still answer?</p> <p>11 BY MR. MORRIS:</p> <p>12 Q. Yes.</p> <p>13 A. Yes, John, that's how I</p> <p>14 understood it.</p> <p>15 Q. Thank you.</p> <p>16 A. Certainly.</p> <p>17 Q. Now the compensation that was the</p> <p>18 subject of these agreements, that wasn't to</p> <p>19 compensate him for past services, was it?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 MR. MORRIS: Withdrawn.</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. The compensation that was subject</p> <p>25 to the agreement was for services that</p>

<p style="text-align: right;">Page 234</p> <p>1 N. Dondero</p> <p>2 would be rendered in the future, correct?</p> <p>3 MS. DEITSCH-PEREZ: Object to the</p> <p>4 form.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. You can answer.</p> <p>7 A. Well, in the future from what</p> <p>8 date?</p> <p>9 Q. From the date that the agreements</p> <p>10 were entered into.</p> <p>11 A. Correct. Yes. From the date,</p> <p>12 yes.</p> <p>13 Q. The agreement was that the notes</p> <p>14 would be forgiven based on a condition</p> <p>15 subsequent, right?</p> <p>16 A. Yes. So a future date from when</p> <p>17 we entered them, um-hmm.</p> <p>18 Q. So something had to happen in the</p> <p>19 future in order for your brother to get the</p> <p>20 benefit of the bargain, right?</p> <p>21 A. Correct.</p> <p>22 Q. Because if it was compensation</p> <p>23 for services rendered in the past, you just</p> <p>24 give him the money, right?</p> <p>25 A. So true.</p>	<p style="text-align: right;">Page 235</p> <p>1 N. Dondero</p> <p>2 MS. DEITSCH-PEREZ: Object to the</p> <p>3 form.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Let me ask another question, a</p> <p>6 different question, Ms. Dondero, and just</p> <p>7 try to finish this up.</p> <p>8 Pursuant to the agreement that</p> <p>9 you entered into on behalf of Dugaboy, the</p> <p>10 notes would only be forgiven if some future</p> <p>11 event occurred, correct?</p> <p>12 A. Right, the monetization of one of</p> <p>13 the three portfolio companies, correct.</p> <p>14 Um-hmm.</p> <p>15 Q. The forgiveness of the notes was</p> <p>16 not for services rendered in the past,</p> <p>17 correct?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. That is correct.</p> <p>21 Q. Okay. Do you know if Dugaboy</p> <p>22 ever issued any promissory notes in favor</p> <p>23 of Highland?</p> <p>24 A. I know there are loans between</p> <p>25 Dugaboy and Highland.</p>
<p style="text-align: right;">Page 236</p> <p>1 N. Dondero</p> <p>2 Q. And do you know who made the loan</p> <p>3 and who received the loan or loans?</p> <p>4 A. I believe Dugaboy was the</p> <p>5 borrower. The loan with Highland, it was</p> <p>6 in 2017. And if my memory serves me right,</p> <p>7 it was 23, 24 million.</p> <p>8 Again, going by memory, John,</p> <p>9 because I really wasn't prepared for this</p> <p>10 line of questioning, but I believe there is</p> <p>11 an earlier loan between the two of them.</p> <p>12 Q. And did you – I apologize. I</p> <p>13 didn't mean to step on your words.</p> <p>14 Are you finished?</p> <p>15 A. Oh, no. I am. Thank you.</p> <p>16 Q. Okay. Were you the trustee of</p> <p>17 the Dugaboy Trust at the time the loans you</p> <p>18 just described were obtained from Highland?</p> <p>19 A. The one that I mentioned that I</p> <p>20 remembered the – I believe it's close to</p> <p>21 or around 24 million, in May of '17, I was</p> <p>22 obviously. I became trustee in October of</p> <p>23 '15.</p> <p>24 The other one, I'm not positive</p> <p>25 on, John, the date and the amount. I just</p>	<p style="text-align: right;">Page 237</p> <p>1 N. Dondero</p> <p>2 know of another one.</p> <p>3 Q. Now the Dugaboy trust is, I think</p> <p>4 as you've described it, a trust for</p> <p>5 education and health and lifestyle</p> <p>6 purposes, right?</p> <p>7 A. And maintenance, correct.</p> <p>8 Q. Do you know why Dugaboy needed to</p> <p>9 borrow 23 to 24 million dollars from</p> <p>10 Highland in 2017?</p> <p>11 A. I'd be speculating. I don't know</p> <p>12 for sure, but I believe it was for real</p> <p>13 estate.</p> <p>14 Q. And did you – do you recall</p> <p>15 executing any documents on behalf of</p> <p>16 Dugaboy in connection with the loan that it</p> <p>17 obtained from Highland?</p> <p>18 A. Not that I recall, John, right</p> <p>19 now.</p> <p>20 Q. Do you know who authorized</p> <p>21 Highland – withdrawn.</p> <p>22 Did you ever have any</p> <p>23 conversations with anybody at any time</p> <p>24 concerning Dugaboy's 23 to 24 million</p> <p>25 dollar loan that it obtained from Highland</p>

<p style="text-align: right;">Page 238</p> <p>1 N. Dondero</p> <p>2 in around 2017?</p> <p>3 MS. DEITSCH-PEREZ: I'm going to</p> <p>4 object. This is neither one of the</p> <p>5 Dugaboy topics and it's beyond the --</p> <p>6 it doesn't pertain to the four</p> <p>7 adversary proceedings. So it's not</p> <p>8 fair to ask the witness about things</p> <p>9 she's not had the occasion to refresh</p> <p>10 herself on.</p> <p>11 MR. MORRIS: Okay.</p> <p>12 MR. DRAPER: John, I let this go</p> <p>13 on behalf of Dugaboy a little bit just</p> <p>14 for background information, but now</p> <p>15 we're sort of bordering on specifics of</p> <p>16 a transaction that is --</p> <p>17 MR. MORRIS: I am -- go ahead,</p> <p>18 Douglas. I'm sorry.</p> <p>19 MR. DRAPER: -- that is not in</p> <p>20 dispute in this litigation. It is not</p> <p>21 within your 30(b)(6) designation. And</p> <p>22 so it's fundamentally unfair to put</p> <p>23 this witness through a memory test for</p> <p>24 no purpose whatsoever that serves</p> <p>25 nothing to do with this litigation.</p>	<p style="text-align: right;">Page 239</p> <p>1 N. Dondero</p> <p>2 MR. MORRIS: Okay. Number one, I</p> <p>3 agree that it's not a 30(b)(6) topic.</p> <p>4 Number two, I agree that I'm not</p> <p>5 asking her these questions in her</p> <p>6 capacity as the Dugaboy trustee. I'm</p> <p>7 asking them in her individual capacity.</p> <p>8 So I don't think you have any grounds</p> <p>9 to object any longer, Mr. Draper.</p> <p>10 And number three, I think all of</p> <p>11 this goes to credibility. And it goes</p> <p>12 to everything we've been talking about</p> <p>13 today.</p> <p>14 And so I'm going to continue to</p> <p>15 ask my questions. And if at any time</p> <p>16 you want to direct the witness not to</p> <p>17 answer, you know, we'll deal with it.</p> <p>18 Okay?</p> <p>19 MR. DRAPER: Okay. So if I</p> <p>20 understand what you just said, just so</p> <p>21 the record is clear, this is not</p> <p>22 30(b)(6) questions to the witness. In</p> <p>23 fact, these are questions to the</p> <p>24 witness in her individual capacity and</p> <p>25 will not serve as a 30(b)(6) answer on</p>
<p style="text-align: right;">Page 240</p> <p>1 N. Dondero</p> <p>2 batch of Dugaboy, correct?</p> <p>3 MR. MORRIS: I thought I was</p> <p>4 quite clear, but, yes, Douglas, that is</p> <p>5 correct.</p> <p>6 MR. DRAPER: Great. Thank you.</p> <p>7 MR. MORRIS: Yep.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Okay. So Ms. Dondero, do you</p> <p>10 recall any conversations you ever had at</p> <p>11 any time concerning the 23 or 24 million</p> <p>12 dollars that Dugaboy borrowed from</p> <p>13 Highland?</p> <p>14 A. Not at this time.</p> <p>15 Q. Okay. You mentioned that you</p> <p>16 believed that the money was used for the</p> <p>17 acquisition of real estate.</p> <p>18 Do I have that right?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. Yes.</p> <p>22 Q. And was that for the acquisition</p> <p>23 of Jim's house in Colorado?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you know if your brother</p>	<p style="text-align: right;">Page 241</p> <p>1 N. Dondero</p> <p>2 acquired a house in Colorado in or around</p> <p>3 2017?</p> <p>4 A. I know he acquired a house in</p> <p>5 Colorado. The time frame, I'm not certain</p> <p>6 of.</p> <p>7 Q. Do you know that he paid more</p> <p>8 than \$20 million for a house in Colorado?</p> <p>9 A. No.</p> <p>10 Q. Was the loan that Dugaboy</p> <p>11 obtained from Highland subject to any of</p> <p>12 the three agreements that you entered into</p> <p>13 as the trustee of Dugaboy?</p> <p>14 A. Any of the three agreements we've</p> <p>15 been discussing?</p> <p>16 Q. Yes.</p> <p>17 A. No.</p> <p>18 Q. Did you ever ask Jim why the</p> <p>19 Dugaboy note wasn't included in the</p> <p>20 agreements?</p> <p>21 A. I did not.</p> <p>22 Q. But you knew Dugaboy note existed</p> <p>23 at the time you entered into the</p> <p>24 agreements, correct?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>

<p style="text-align: right;">Page 242</p> <p>1 N. Dondero</p> <p>2 form.</p> <p>3 A. At the time I entered into the</p> <p>4 agreements, I don't know, John.</p> <p>5 Q. So at the time you entered into</p> <p>6 these three agreements, you don't recall</p> <p>7 whether you knew that Dugaboy had obtained</p> <p>8 a 23 to 24 million dollar loan from</p> <p>9 Highland.</p> <p>10 Do I have that right?</p> <p>11 A. I don't know as I sit here now.</p> <p>12 What I knew then, I don't remember.</p> <p>13 Q. But you do remember the specific</p> <p>14 identity of each promissory note that was</p> <p>15 the subject of each of these three</p> <p>16 agreements, correct?</p> <p>17 A. When I refreshed my memory, sure.</p> <p>18 Q. Do you know if Dugaboy ever</p> <p>19 entered into any agreement on behalf of</p> <p>20 Highland other than the three oral</p> <p>21 agreements that you described today?</p> <p>22 A. Dugaboy has entered into a lot of</p> <p>23 agreements with Highland.</p> <p>24 Q. All right. Let me restate the</p> <p>25 question.</p>	<p style="text-align: right;">Page 243</p> <p>1 N. Dondero</p> <p>2 Did Dugaboy ever, ever -- ever,</p> <p>3 ever. Let me try again.</p> <p>4 Did Dugaboy ever enter into any</p> <p>5 agreements pursuant to Section 3.10 of the</p> <p>6 LP agreement other than the three</p> <p>7 agreements that you've mentioned today?</p> <p>8 A. Oh --</p> <p>9 MS. DEITSCH-PEREZ: Were there</p> <p>10 any before these, John? Before?</p> <p>11 MR. MORRIS: I don't care if it's</p> <p>12 before or after. So let me ask again.</p> <p>13 BY MR. MORRIS:</p> <p>14 Q. As the trustee of Dugaboy, are</p> <p>15 you aware of any agreement Dugaboy has ever</p> <p>16 entered into pursuant to Section 3.10 of</p> <p>17 the LP agreement other than the three</p> <p>18 agreements that you have described today?</p> <p>19 A. Not that I'm aware of,</p> <p>20 compensation.</p> <p>21 Q. Can we put up your discovery</p> <p>22 responses, which I think is document No. 25</p> <p>23 in your pile.</p> <p>24 MS. DEITSCH-PEREZ: The notebook.</p> <p>25 MR. ELMS: 25.</p>
<p style="text-align: right;">Page 244</p> <p>1 N. Dondero</p> <p>2 THE WITNESS: What is it?</p> <p>3 MR. ELMS: Tab 25.</p> <p>4 THE WITNESS: Tab 25. Okay.</p> <p>5 (Document review.)</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. Have you seen this document</p> <p>8 before, ma'am?</p> <p>9 A. Just one second. I'm getting</p> <p>10 there.</p> <p>11 Q. Sure. Take your time.</p> <p>12 A. Okay.</p> <p>13 (Document review.)</p> <p>14 A. Yes. Yes, I believe I have.</p> <p>15 Q. Can you turn to page 15?</p> <p>16 (Witness complies.)</p> <p>17 Q. Is that your signature?</p> <p>18 A. It is.</p> <p>19 Q. And did you review this document</p> <p>20 before you signed it?</p> <p>21 A. I did.</p> <p>22 Q. Did you have an opportunity to</p> <p>23 consult with counsel before you signed it?</p> <p>24 A. I did.</p> <p>25 Q. Did you in fact consult with</p>	<p style="text-align: right;">Page 245</p> <p>1 N. Dondero</p> <p>2 counsel before signing it?</p> <p>3 A. I did.</p> <p>4 Q. And you reviewed this document in</p> <p>5 connection with your preparation for</p> <p>6 today's deposition, correct?</p> <p>7 A. Correct.</p> <p>8 Q. As you sit here now, do you know</p> <p>9 of anything in the objections and responses</p> <p>10 that is wrong or inaccurate?</p> <p>11 (Document review.)</p> <p>12 A. I don't see anything, John. I</p> <p>13 don't believe so.</p> <p>14 Q. As you sit here right now, do you</p> <p>15 have any reason to amend these objections</p> <p>16 and responses to make them more complete or</p> <p>17 more precise?</p> <p>18 A. Not at this time.</p> <p>19 Q. Can you turn to page 9, please?</p> <p>20 (Witness complies.)</p> <p>21 Q. Do you see in request for</p> <p>22 admissions No. 7 and 8, you were asked to</p> <p>23 admit, and I'm going to summarize, that no</p> <p>24 document was created prior to the</p> <p>25 commencement of the adversary proceeding</p>

<p style="text-align: right;">Page 246</p> <p>1 N. Dondero</p> <p>2 that reflects -- let's just take them one</p> <p>3 at a time. Let me withdraw that.</p> <p>4 Looking at No. 7, do you see that</p> <p>5 you denied having sufficient knowledge or</p> <p>6 information to admit or deny the request?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Would you agree that as</p> <p>9 you sit here right now, you are not aware</p> <p>10 of any document that was created prior to</p> <p>11 the commencement of the adversary</p> <p>12 proceeding that reflects or memorializes</p> <p>13 the terms of the agreement?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And turning to No. 8, do</p> <p>16 you see for that one, you also responded by</p> <p>17 saying you lack sufficient information to</p> <p>18 admit or deny the request?</p> <p>19 A. Yes, I do.</p> <p>20 Q. Would you agree with me that it</p> <p>21 would be fair to say that as you sit here</p> <p>22 today, you are not aware of any document</p> <p>23 that was created prior to the commencement</p> <p>24 of the adversary proceeding concerning the</p> <p>25 existence of the agreement?</p>	<p style="text-align: right;">Page 247</p> <p>1 N. Dondero</p> <p>2 A. That's correct; I'm not aware of</p> <p>3 any.</p> <p>4 Q. Okay. Can we go to Interrogatory</p> <p>5 No. 5?</p> <p>6 MS. DEITSCH-PEREZ: So page 12 to</p> <p>7 13. No, no, where you were. We were</p> <p>8 in Tab 25.</p> <p>9 THE WITNESS: Tab 25. What page</p> <p>10 now?</p> <p>11 MR. ELMS: Page 13.</p> <p>12 MS. DEITSCH-PEREZ: Page 13. The</p> <p>13 number is on page 12, but then --</p> <p>14 MR. ELMS: He's asking you at the</p> <p>15 very top there.</p> <p>16 THE WITNESS: Oh.</p> <p>17 (Document review.)</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. And do you see that Interrogatory</p> <p>20 No. 5 asked you to identify every document</p> <p>21 and communication you reviewed in</p> <p>22 connection with your decision to enter into</p> <p>23 the agreement?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And you said that you</p>
<p style="text-align: right;">Page 248</p> <p>1 N. Dondero</p> <p>2 either reviewed or discussed with your</p> <p>3 brother the LP agreement and the Dugaboy</p> <p>4 Trust documents.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any recollection of</p> <p>8 actually reviewing the LP agreement before</p> <p>9 entering into any of the agreements that</p> <p>10 you've described?</p> <p>11 A. I don't recall.</p> <p>12 Q. You may or you may not, but do</p> <p>13 you have a recollection of discussing it</p> <p>14 with your brother?</p> <p>15 A. I don't recall, John.</p> <p>16 Q. Do you recall reviewing Section</p> <p>17 3.1 before you entered into any of the</p> <p>18 three agreements?</p> <p>19 A. I don't know when that review</p> <p>20 took place.</p> <p>21 Q. Do you recall whether the review</p> <p>22 took place in connection with your entry on</p> <p>23 behalf of Dugaboy into any of the three</p> <p>24 agreements?</p> <p>25 A. I don't know the time frame,</p>	<p style="text-align: right;">Page 249</p> <p>1 N. Dondero</p> <p>2 John.</p> <p>3 Q. Did you confer with anybody --</p> <p>4 withdrawn.</p> <p>5 Did you or Dugaboy confer with</p> <p>6 anybody other than your brother before you</p> <p>7 caused Dugaboy to enter into the three</p> <p>8 agreements?</p> <p>9 A. No, not that I'm aware of.</p> <p>10 Q. Did you or Dugaboy seek any legal</p> <p>11 advice before entering into any of the</p> <p>12 three agreements?</p> <p>13 A. No.</p> <p>14 Q. Do you have any recollection of</p> <p>15 actually reviewing the Dugaboy Trust</p> <p>16 documents before entering into any of the</p> <p>17 three agreements?</p> <p>18 A. I have reviewed the trust</p> <p>19 documents, John. I don't know what time</p> <p>20 frame.</p> <p>21 Q. Okay. I appreciate that.</p> <p>22 A. Sure.</p> <p>23 Q. I'm sorry, did I cut you off?</p> <p>24 A. Oh, no. I'm sorry. I was just</p> <p>25 answering you. Thank you.</p>

<p style="text-align: right;">Page 250</p> <p>1 N. Dondero</p> <p>2 Q. Okay. So take a look at</p> <p>3 Interrogatory No. 6 below.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And your response was, "Other</p> <p>7 than generally approving compensation,</p> <p>8 including the agreements at issue in this</p> <p>9 notes proceeding, none."</p> <p>10 Do you see that?</p> <p>11 A. I do.</p> <p>12 Q. What does "Other than generally</p> <p>13 approving compensation" refer to?</p> <p>14 A. Well, "Other than generally..."</p> <p>15 I'm assuming it means the</p> <p>16 forgiveness of the loan, "Other than</p> <p>17 generally approving compensation."</p> <p>18 Q. Okay. So let's look at the</p> <p>19 Interrogatory. This Interrogatory</p> <p>20 specifically says that "Other than the</p> <p>21 agreement" –</p> <p>22 A. Okay.</p> <p>23 Q. – "identify every agreement you</p> <p>24 ever entered into as a representative of a</p> <p>25 majority of Class A shareholders of</p>	<p style="text-align: right;">Page 251</p> <p>1 N. Dondero</p> <p>2 plaintiff."</p> <p>3 Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. Are you aware of any agreement</p> <p>6 that you ever entered into as a</p> <p>7 representative of a majority of Class A</p> <p>8 shareholders of plaintiff other than the</p> <p>9 agreements that you've identified?</p> <p>10 A. No.</p> <p>11 Q. Okay. And were you, in your</p> <p>12 capacity as the trustee of Dugaboy –</p> <p>13 withdrawn.</p> <p>14 Did you, in your capacity as</p> <p>15 trustee of Dugaboy, approve compensation</p> <p>16 for any affiliate of Strand other than the</p> <p>17 three agreements that you entered into that</p> <p>18 you've described today?</p> <p>19 A. Not that I'm aware of.</p> <p>20 Q. Okay. So generally approving</p> <p>21 compensation, does that have any meaning at</p> <p>22 all other than the three agreements that</p> <p>23 you entered into that you've described</p> <p>24 today?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 252</p> <p>1 N. Dondero</p> <p>2 MR. MORRIS: Can we put up –</p> <p>3 withdrawn. Hold on.</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Before we take this down, did</p> <p>6 Dugaboy provide – withdrawn.</p> <p>7 Did Dugaboy approve any</p> <p>8 compensation for Jim Dondero other than the</p> <p>9 three agreements that you've described</p> <p>10 today?</p> <p>11 A. I do not believe so since I've</p> <p>12 been trustee.</p> <p>13 MR. MORRIS: Can we put up</p> <p>14 Exhibit No. 26, please, which would</p> <p>15 have been Dugaboy's discovery</p> <p>16 responses?</p> <p>17 (N. Dondero Exhibit 26, Defendant</p> <p>18 the Dugaboy Investment Trust's</p> <p>19 Objections and Responses to Plaintiff's</p> <p>20 Request for Admission, Interrogatories,</p> <p>21 and Requests for Production, marked for</p> <p>22 identification, as of this date.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. And that was No. 26 in the</p> <p>25 binder.</p>	<p style="text-align: right;">Page 253</p> <p>1 N. Dondero</p> <p>2 A. Okay. Um-hmm.</p> <p>3 Q. Have you seen this document</p> <p>4 before?</p> <p>5 A. I believe so, yes.</p> <p>6 Q. And can you turn to page 14?</p> <p>7 A. Yes.</p> <p>8 Q. Is that your signature?</p> <p>9 A. It is.</p> <p>10 Q. And did you review this document</p> <p>11 before you signed it?</p> <p>12 A. I did.</p> <p>13 Q. And did you have an opportunity</p> <p>14 to consult with counsel before you signed</p> <p>15 it?</p> <p>16 A. I did.</p> <p>17 Q. And did you in fact consult with</p> <p>18 counsel before you signed it?</p> <p>19 A. I did.</p> <p>20 Q. As you sit here right now, in</p> <p>21 your capacity as the trustee of the Dugaboy</p> <p>22 Trust, do you know of anything in the</p> <p>23 objections and responses that is wrong or</p> <p>24 inaccurate?</p> <p>25 (Document review.)</p>

<p style="text-align: right;">Page 254</p> <p>1 N. Dondero</p> <p>2 A. I don't see anything that needs</p> <p>3 to be changed.</p> <p>4 Q. As you sit here right now, as the</p> <p>5 trustee of the Dugaboy Trust, do you have</p> <p>6 any reason to amend your objections or</p> <p>7 responses to make them more complete or</p> <p>8 more precise?</p> <p>9 A. I have no reason at this time,</p> <p>10 John.</p> <p>11 Q. Okay. I think I have kind of the</p> <p>12 same questions that I just asked you about</p> <p>13 your discovery responses, but let's see.</p> <p>14 Can we turn to page 8, which</p> <p>15 again has responses to request for</p> <p>16 admission No. 7 and 8?</p> <p>17 A. Okay.</p> <p>18 Q. And if you take a look request</p> <p>19 for admission No. 7 and the response, can</p> <p>20 you just read the that to yourself and tell</p> <p>21 me when you're finished?</p> <p>22 (Witness complies.)</p> <p>23 A. I'm done.</p> <p>24 Q. Okay. Would your response be</p> <p>25 accurate as follows: Dugaboy is not aware</p>	<p style="text-align: right;">Page 255</p> <p>1 N. Dondero</p> <p>2 of any document that was created prior to</p> <p>3 the commencement of the adversary</p> <p>4 proceeding that reflects or memorializes</p> <p>5 the terms of the agreement?</p> <p>6 A. That is correct.</p> <p>7 Q. Okay. Moving to request for</p> <p>8 admission No. 8, the same thing, can you</p> <p>9 just read the request and the response to</p> <p>10 yourself and let me know when you're</p> <p>11 finished?</p> <p>12 (Witness complies.)</p> <p>13 A. I'm done, John.</p> <p>14 Q. Okay. Would it be fair to</p> <p>15 interpret your response as follows:</p> <p>16 Dugaboy is not aware of any document that</p> <p>17 was created prior to the commencement of</p> <p>18 the adversary proceeding concerning the</p> <p>19 existence of the agreement?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And let's go to</p> <p>22 Interrogatory No. 5.</p> <p>23 Are your answers in your capacity</p> <p>24 as – and if you want me to go through it</p> <p>25 again, I'm happy to do it, but I just need</p>
<p style="text-align: right;">Page 256</p> <p>1 N. Dondero</p> <p>2 to know in the first instance, is there any</p> <p>3 difference – will your answers concerning</p> <p>4 Interrogatory No. 5 be any different in</p> <p>5 your capacity as the Dugaboy trustee than</p> <p>6 they were in your individual capacity?</p> <p>7 A. Let me read it, John.</p> <p>8 Q. Take your time.</p> <p>9 (Document review.)</p> <p>10 A. It's the same as the one earlier.</p> <p>11 Q. Okay. And finally, let's just</p> <p>12 look at Interrogatory No. 6. Please take a</p> <p>13 look at that and the response and let me</p> <p>14 know if your answers in your capacity as</p> <p>15 the trustee of the Dugaboy Trust would</p> <p>16 differ in any way from the answers that you</p> <p>17 gave pertaining to Interrogatory No. 6 in</p> <p>18 your individual capacity.</p> <p>19 A. No, it's the same.</p> <p>20 Q. Okay.</p> <p>21 MR. MORRIS: So the time right</p> <p>22 now is 4:57 Eastern, I guess 3:57 your</p> <p>23 time. I'm done with my outline, but I</p> <p>24 just want to check my notes to see if I</p> <p>25 have anything left.</p>	<p style="text-align: right;">Page 257</p> <p>1 N. Dondero</p> <p>2 Douglas, you'll be happy to know</p> <p>3 that I do expect to finish well in</p> <p>4 advance of 4:30 Central time. So why</p> <p>5 don't we just take a break and we'll</p> <p>6 come back at, I guess, 4:10 Central</p> <p>7 time?</p> <p>8 THE WITNESS: Okay.</p> <p>9 THE VIDEOGRAPHER: The time is</p> <p>10 3:57. We are going off the record.</p> <p>11 (Recess is taken.)</p> <p>12 THE VIDEOGRAPHER: The time is</p> <p>13 12:15. We are back on the record.</p> <p>14 MR. MORRIS: This is John Morris.</p> <p>15 I have no further questions of this</p> <p>16 witness at this time.</p> <p>17 Does anybody else have any</p> <p>18 questions?</p> <p>19 MS. DEITSCH-PEREZ: Reserve for</p> <p>20 trial.</p> <p>21 MR. MORRIS: So are we in</p> <p>22 agreement that we can close the record</p> <p>23 right now?</p> <p>24 MR. DRAPER: Yes.</p> <p>25 MR. MORRIS: Thank you very much</p>

<div style="text-align: right; font-size: small;">Page 258</div> <p>1 N. Dondero</p> <p>2 everybody. Ms. Dondero, thank you.</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 4:16. This concludes today's</p> <p>5 deposition, Monday, October 18, 2021.</p> <p>6 (Time noted: 4:16 p.m.)</p> <p>7</p> <p>8 _____</p> <p>9 NANCY DONDERO</p> <p>10</p> <p>11</p> <p>12 Subscribed and sworn to before me</p> <p>13 this day of 2021.</p> <p>14</p> <p>15 _____</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<div style="text-align: right; font-size: small;">Page 259</div> <p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 STATE OF FLORIDA)</p> <p>5 : ss.</p> <p>6 COUNTY OF PALM BEACH)</p> <p>7</p> <p>8 I, ANNETTE ARLEQUIN, a Notary</p> <p>9 Public within and for the State of New</p> <p>10 York, do hereby certify:</p> <p>11 That NANCY DONDERO, whose</p> <p>12 deposition is hereinbefore set forth,</p> <p>13 was duly sworn by me, and that the</p> <p>14 transcript of such depositions is a</p> <p>15 true record of the testimony given by</p> <p>16 such witness.</p> <p>17 I further certify that I am not</p> <p>18 related to any of the parties to this</p> <p>19 action by blood or marriage; and that I</p> <p>20 am in no way interested in the outcome</p> <p>21 of this matter.</p> <p>22 IN WITNESS WHEREOF, I have hereunto</p> <p>23 set my hand this 18th day of October, 2021.</p> <p>24 _____</p> <p>25 ANNETTE ARLEQUIN, CCR, RPR, CRR, RSA</p>																																																																																																			
<div style="text-align: right; font-size: small;">Page 260</div> <p>1</p> <p>2 INDEX</p> <p>3</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">WITNESS</td> <td style="width: 40%;">PAGE</td> </tr> <tr> <td>NANCY DONDERO</td> <td></td> </tr> <tr> <td>BY MR. MORRIS</td> <td style="text-align: center;">8</td> </tr> </table> <p>9</p> <p>10 INDEX OF EXHIBITS</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 60%;">DESCRIPTION</td> <td style="width: 40%;">PAGE</td> </tr> <tr> <td>N. Dondero Exhibit 2, Amended</td> <td style="text-align: center;">148</td> </tr> <tr> <td>Complaint for (1) Breach of</td> <td></td> </tr> <tr> <td>Contract, (II) Turnover of</td> <td></td> </tr> <tr> <td>Property, (III) Fraudulent</td> <td></td> </tr> <tr> <td>Transfer, and (IV) Breach of</td> <td></td> </tr> <tr> <td>Fiduciary Duty</td> <td></td> </tr> <tr> <td>N. Dondero Exhibit 31, Defendant</td> <td style="text-align: center;">157</td> </tr> <tr> <td>James Donder's Answer to Amended</td> <td></td> </tr> <tr> <td>Complaint</td> <td></td> </tr> <tr> <td>N. Dondero Exhibit 43, Promissory</td> <td style="text-align: center;">184</td> </tr> <tr> <td>Note, Bates-stamped D-CNL000550</td> <td></td> </tr> <tr> <td>through 551</td> <td></td> </tr> <tr> <td>N. Dondero Exhibit 26, Defendant</td> <td style="text-align: center;">252</td> </tr> <tr> <td>the Dugaboy Investment Trust's</td> <td></td> </tr> <tr> <td>Objections and Responses to</td> <td></td> </tr> <tr> <td>Plaintiff's Request for</td> <td></td> </tr> <tr> <td>Admission, Interrogatories, and</td> <td></td> </tr> <tr> <td>Requests for Production</td> <td></td> </tr> </table> <p>25</p>	WITNESS	PAGE	NANCY DONDERO		BY MR. MORRIS	8	DESCRIPTION	PAGE	N. Dondero Exhibit 2, Amended	148	Complaint for (1) Breach of		Contract, (II) Turnover of		Property, (III) Fraudulent		Transfer, and (IV) Breach of		Fiduciary Duty		N. Dondero Exhibit 31, Defendant	157	James Donder's Answer to Amended		Complaint		N. Dondero Exhibit 43, Promissory	184	Note, Bates-stamped D-CNL000550		through 551		N. Dondero Exhibit 26, Defendant	252	the Dugaboy Investment Trust's		Objections and Responses to		Plaintiff's Request for		Admission, Interrogatories, and		Requests for Production		<div style="text-align: right; font-size: small;">Page 261</div> <p>1</p> <p>2 ERRATA SHEET FOR THE TRANSCRIPT OF:</p> <p>3 CASE NAME: IN RE: HIGHLAND CAPITAL MANAGEMENT</p> <p>4 DATE: OCTOBER 18, 2021</p> <p>5 DEPONENT: NANCY DONDERO</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 5%;">Pg.</th> <th style="width: 5%;">Ln.</th> <th style="width: 20%;">Now Reads</th> <th style="width: 20%;">Should Read</th> <th style="width: 50%;">Reason</th> </tr> <tr><td>7</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>8</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>9</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>10</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>11</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>12</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>13</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>14</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>15</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> <tr><td>16</td><td>—</td><td>_____</td><td>_____</td><td>_____</td></tr> </table> <p>17</p> <p>18 _____</p> <p>19 NANCY DONDERO</p> <p>20 SUBSCRIBED AND SWORN BEFORE ME</p> <p>21 THIS ___ DAY OF _____ 2021.</p> <p>22</p> <p>23 _____</p> <p>24 (Notary Public)</p> <p>25 MY COMMISSION EXPIRES: _____</p>	Pg.	Ln.	Now Reads	Should Read	Reason	7	—	_____	_____	_____	8	—	_____	_____	_____	9	—	_____	_____	_____	10	—	_____	_____	_____	11	—	_____	_____	_____	12	—	_____	_____	_____	13	—	_____	_____	_____	14	—	_____	_____	_____	15	—	_____	_____	_____	16	—	_____	_____	_____
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\$	180:15 191:24 226:3	2:41 210:21	551 184:7	accurate 152:16 162:9 254:25
\$100 205:19	1987 34:17 36:10	2:57 210:24	6	acquire 66:7,13 69:3, 8,14 71:5,10 73:12, 16,22 78:2,6,12
\$20 241:8	1990s 39:11	3	6 180:15 250:3 256:12,17	acquired 67:14 241:2,4
\$30 137:19,25 139:12,16,20 140:9, 15 141:11,15,20 143:12,20	1997 33:24 34:3,6	3 180:15	60 175:21	acquiring 209:9
\$50 206:12,18,20	19th 39:6,19,20	3.1 248:17	63-4 146:2	acquisition 210:12 240:17,22
\$6 224:19	1:30 153:24 154:2	3.10 148:5,22 149:5, 12,17,20 150:24 152:19 156:8,14,22 172:24 243:5,16	7	actual 47:21 53:8 165:15
\$60 204:18 206:14 222:13	1:35 155:3,5	30 7:18 16:22 136:12 144:3	7 137:4 147:12 245:22 246:4 254:16,19	add 101:9
\$7,900,000 184:12	1st 20:5 24:10	30(b)(6) 16:22 19:13, 18 24:24 25:8 67:20 162:12 238:21 239:3, 22,25	700,000 51:21	addition 87:2
(2	30-year 117:2,23 128:16 142:3,4,13, 17,24 143:7	72 226:4	additional 44:15
(1) 148:12	20 144:20 145:14 146:4 147:11 148:7,10,11	31 157:14,15 159:2,7 160:15	8	address 58:13
1	20 172:13 173:12	32 147:10,12,19	8 137:4 245:22 246:15 254:14,16 255:8	administer 6:14
1 148:18 224:4	20-plus 207:6	37 145:19 146:4 147:10,11,13,19	82 157:21 160:22,24 161:7 162:8,18 163:12 165:2,9,23 166:4,15 169:13 172:16 173:23 178:10 198:20 211:2, 9	administered 8:12
10 224:5	2009 92:20,21	3:57 256:22 257:10	83 160:8	admissible 7:17 15:4
100 33:9	2010 166:23	3rd 160:10	9	admission 252:20 254:16,19 255:8
10:30 58:20	2015 167:16	4	9 245:19	admissions 245:22
10:51 58:23	2017 53:17,20 54:17, 21 55:16,20,23 56:4 142:8 175:17,23 236:6 237:10 238:2 241:3	4 145:12,19 180:15	A	admit 245:23 246:6, 18
12 247:6,13	2018 53:23 56:8,12, 16,21 184:12	43 184:4,5	ability 11:9 203:24 204:8	advance 257:4
12:00 118:17	2019 39:7,19,21 56:24 57:4,8,12 92:21 172:25 173:14, 18	4:10 257:6	Absolutely 134:6	advanced 40:5
12:15 257:13	2020 173:2,9,15	4:16 258:4,6	accept 142:17	adversary 238:7 245:25 246:11,24 255:3,18
12:16 118:23	2021 20:5,11,18 21:13,18 22:9 24:10 258:5,13	4:30 257:4	accept 142:17	advice 152:14 249:11
12:54 154:8	22 136:17	4:57 256:22	accept 142:17	advisement 58:9
13 170:9 180:14,17 182:8 187:10 189:4 247:7,11,12	23 136:17 236:7 237:9,24 240:11 242:8	5	acceptable 14:4	Advisors 14:3 38:24 45:9 129:6
14 253:6	24 236:7,21 237:9,24 240:11 242:8	5 247:5,20 255:22 256:4	accepted 168:13	affiliate 98:6 99:22 100:8,14,18,25 101:24 102:5,11,15 103:17,20,24 119:9, 16,25 129:12,14,18 251:16
15 236:23 244:15	25 243:22,25 244:3,4 247:8,9	50 223:13 225:18	accepting 168:7	affiliated 96:19,24 97:18
17 140:24 172:8 180:15 226:3 236:21	26 252:14,17,24	500 51:21	access 61:23 63:7 66:18	
18 172:8,10 180:15 184:11 191:23 226:3 258:5	29 13:7 19:19		Accounting 152:5	
19 39:17 115:14 119:22 172:10,13				

affiliates 95:25 96:4, 8 97:23,25 98:11,21 99:2,6,17 100:3 101:21 103:3 agent 35:7 aggregate 206:9 225:10,21 agree 168:9 194:13 201:3 239:3,4 246:8, 20 agreed 6:3,8,12 142:17 161:10,17 163:3 164:19 168:19 194:12 201:9 205:9 agreement 16:9,12, 16 29:20,25 30:3,12 32:7,11,15 144:10,11 146:9,20,24 147:5 149:2 156:8,12,15 157:4 161:22 163:13 165:3 166:3 169:18 170:3 172:6,9,23,24 173:5,13 178:23 179:4 180:2 181:25 182:14 183:10 185:3, 22 187:9 190:22 191:10 192:14 195:22 197:7 199:2, 14,18,24 201:10,19, 23 203:14 205:14,23 206:6 211:10 221:11, 17 222:4,9,12,24 223:8,25 224:15 225:23 227:25 232:4 233:25 234:13 235:8 242:19 243:6,15,17 246:13,25 247:23 248:3,8 250:21,23 251:5 255:5,19 257:22 agreements 28:16, 21 106:20,24 107:10 120:20 121:3,10,15 131:6,14,19,25 162:23 163:10,14 164:15,25 165:4,16, 22 166:14 169:12 170:5,8,11,16,21 171:4,21 172:2 173:22 174:2,4,14, 18,25 175:6,16 176:9,16,25 177:3, 22,23 178:9,12	179:11 180:11 181:4, 8,17 182:10,20 183:13,16,19,24 185:21 186:8,9 187:3,15,19,22 188:24 189:7,12 190:18 191:18 192:3, 7,8,9,16,23 193:9,15, 21 194:21 195:16 196:21,25 197:15 198:14 200:7,10,17, 19,22 201:5 204:2,10 205:7 207:10 208:6, 16,25 209:7,14,24 210:8 211:18 212:13, 20 213:5,12 214:14, 19 215:2,21 216:3,10 217:3,8,11,15,19,23 218:8,13,18 220:3 223:5 224:24 225:12, 20,25 226:8 227:9, 19,21 229:22 231:11 232:25 233:18 234:9 241:12,14,20,24 242:4,6,16,21,23 243:5,7,18 248:9,18, 24 249:8,12,17 250:8 251:9,17,22 252:9 ahead 41:22 109:16 145:24 188:13 238:17 allegation 162:13 allocate 60:21 allowed 10:21 alternative 194:17 ambiguous 156:23 amend 245:15 254:6 amended 16:11 148:11 157:9,16 158:22 159:3,8,20,23 211:3 amount 82:18 90:13 93:21 136:2,5 141:10 182:4,7 184:12 204:19 206:10 223:20 224:6 225:11, 16,21 226:7,9 236:25 amounts 128:17 142:10 analysis 49:9,13,17,	23 50:19,23 51:4,7 215:8 Annette 7:11 138:19 177:15 annual 170:10 answering 11:2 30:19 249:25 answers 12:11 59:8, 16 255:23 256:3,14, 16 apologize 44:10 57:18 79:22 90:6 97:10 109:15,19 131:9 148:3 150:2 159:6 183:6 225:10 236:12 appearances 13:19 appeared 40:3 application 37:14 applies 162:18 applying 37:12 appoint 167:17,19 appointed 38:24 appointment 168:14 approve 251:15 252:7 approved 53:6 approving 52:11,16, 23 250:7,13,17 251:20 approximate 64:17 approximately 18:23 137:4 141:10 April 28:10 area 37:25 48:13,17, 25 49:6,14,17 Arlequin 7:11 ascertain 56:3 71:23 73:7,21 74:24 78:11, 25 91:17 93:16 120:16 121:15 122:8 124:19 126:12 127:4 139:20 152:15 153:10 212:14 215:3	Asia 148:4 160:22 aspect 21:13 119:3 156:21 198:13 199:13 asserted 21:8,9 asserting 20:19 21:14 assess 76:7 asset 35:9,12,18 36:3 206:18 221:12 222:5 224:4 225:2 227:7 228:7 assets 35:22 201:21, 25 202:24 221:4 222:15 223:6,12 226:15,21 227:2 228:15,22 229:4,18 assistant 151:18 association 7:5 assume 105:13 219:14 assuming 226:13 250:15 assumption 101:2,5 assumptions 114:2, 3 astronomical 215:16 attached 145:12 attempt 79:17 126:4 attend 34:11 attendance 118:21 attorney 10:7 17:6 23:22 26:3,6 attorneys 6:3 13:17 17:9,12,22 18:2,6,25 37:3 38:3 audited 62:25 authorized 6:14 111:16,22 112:2,7 123:21 124:5,12,19 137:12,19,24 237:20 avoid 201:19	aware 19:23 20:22, 25 21:4,7 39:9,13 48:6 51:10 61:16,18, 22 63:13 64:23,24 66:6,10,21 68:5 78:17 81:2,7,12,22 82:6 84:15,16 86:8, 11 88:16 91:11 92:4 94:6 97:21,23 99:3,5 102:23 106:10 108:2 110:4,6,10,15 111:5, 8,18 115:7 116:6 122:22 123:4,10,14 125:17 131:16,22 132:4,24 133:5,6,12, 20,21,24 134:17 135:4,9,23 137:3 140:14,15 141:23 143:24 162:11 179:19,22 180:3,25 185:16,19 191:8 199:22 200:2 212:11 225:19 243:15,19 246:9,22 247:2 249:9 251:5,19 254:25 255:16 awareness 50:6,8 <hr/> B <hr/> BA 34:20 back 24:25 58:23 75:22 92:20 93:21 94:8,14,23 97:13,15 105:5 108:13,15 112:12 118:23 134:4 138:20 153:23 155:5 159:14,15 171:7 177:8,12,15,17 184:22 188:15,17 199:9 208:2 210:24, 25 230:8 257:6,13 backed 91:6 background 32:21 36:16,17,25 37:6,10 47:24 152:4 238:14 balance 62:6,21 206:25 ballpark 51:22 136:18,21,25 137:10 175:22 226:4
---	---	--	---	---

bank 62:6	believing 211:25 212:7	155:24 156:4 207:20 208:23 210:15 257:5	75:7,10,15 105:19,22 106:2 120:5,9,12,17 130:15,18,22 131:2 194:2	Changing 144:4
bankrupt 35:23		bring 194:2		check 24:25 256:24
bankruptcy 16:5 22:17 24:18 35:25 39:14,25 40:7,11	beneficial 104:11,13 105:10 129:20,23 130:9 222:22	broadly 110:9		checks 47:24
bargain 234:20	beneficiaries 168:23	brother 19:24,25 20:6,11,17,22 21:4,7, 13,17 22:7,10,20 23:4 28:13,17,22 29:15 31:8,22 39:10 40:6,9 47:7,12 51:8, 13 59:20 60:7,13,23 61:3,16,21 72:17 77:2 86:22 87:5 89:12,17 92:5,8,24 93:17,20 94:7,12,22 95:5,9,15,18 96:25 97:19 98:24 101:19 102:19 103:2,7 104:13 128:20 129:2 157:11 158:24 162:24 163:11 164:16 168:24 169:2 170:3 173:9,15,20,21 174:19 176:9,17 179:12 180:13 181:5 182:16,18 183:8,16, 21 184:18 185:4,23 186:10 187:5,16 188:24 189:16,24 191:10,15 193:22 194:18,22 195:24 196:3,13,19 197:2 199:22 200:3,12 202:12 204:12,14 207:8 208:2,5,12,13 212:3,7,10,15 213:7, 14 216:10,20 218:19 221:2,19 224:18,25 228:10 229:24 231:13 232:7,14,20 233:3,6 234:19 240:25 248:3,14 249:6	C	children 168:25
barred 161:8	beneficiary 104:16 169:3		calendar 212:23	circumstance 146:22
based 64:12 76:24 101:5 216:15 234:14	benefit 202:22,23 203:5,8,15 204:16 206:7,17 222:13 224:9,25 226:16 233:5 234:20		call 40:15 189:9 230:11 231:2	circumstances 11:16 46:2 146:19 149:16
basing 181:7	benefits 55:10 222:3,9 223:8,19		called 8:19 16:22 36:14,18 38:12 40:12 45:9 75:4 103:11 119:6 129:6	Civil 7:19
basis 34:2 50:7 65:17,19 119:12,19 129:16 150:3 151:5, 21 161:20 163:5 164:21 181:16 183:12,14 198:22 201:7 203:9,16 207:14,25 208:9 211:24 212:6	benefitted 206:23 222:22		cancellation 233:4	claim 43:17
batch 240:2	bet 92:17		CANTY 159:2	claims 21:8 42:14 43:11 161:8
Bates-stamped 184:6	big 13:10 17:7		capacity 16:20,21 25:11,14,16,22 26:17 30:4,13,14 31:3,10, 14,24 32:4,17 47:22 50:16 51:2 67:20 182:15 239:6,7,24 251:12,14 253:21 255:23 256:5,6,14,18	clarify 25:8 134:20
Beach 191:2	bills 32:13		capital 10:9 16:4,12 38:5,12 42:3 103:11	clarity 158:21
began 36:11	binder 13:10 17:7 19:11,16,19 144:14 252:25		care 243:11	class 149:25 150:5 161:16 165:14 169:21 250:25 251:7
begin 12:7,12	binding 218:9		case 7:20 22:17 38:18 48:12 61:17	classes 48:20
beginning 20:4 47:21 91:20 158:3 161:4 172:8,10,13 191:24	bit 29:13 43:15 169:23 238:13		cases 38:5	clear 8:5 13:21 21:23 41:23 67:17,18 186:22 214:11 239:21 240:4
behalf 14:2 43:18 56:2,19 99:22 100:13 115:20 128:2 142:16 143:25 165:16 171:5 176:25 177:22 178:10 180:12 200:8, 20 205:9,10 206:6 211:19 223:5,21 224:2 225:13 227:9 230:12 231:3 232:5 235:9 237:15 238:13 242:19 248:23	board 173:11		caused 166:2,13 176:24 177:21 178:9 200:8,20 208:14 211:17 213:3,11 214:12,18,24 217:20 249:7	closed 36:16
belief 130:7 151:6 181:7,16 208:8,10 218:10	book 175:8		cellphone 9:23	coach 104:25
believed 47:6,12 49:5 88:17 211:23 229:2 240:16	bordering 238:15	brother's 61:10,14 159:22 198:8,11 201:7	Central 154:2 257:4, 6	coaching 105:3
	borrow 231:19 237:9	BS 34:20,21	CEO 50:10	colleague 144:12
	borrowed 231:25 240:12	build 201:13	certifications 36:6	collect 158:23 161:11 185:9,17
	borrower 189:18 190:2 236:5	built 36:15	certified 7:4	collectively 163:13 165:3
	borrowers 208:14 231:15 232:21	business 33:12 42:23 43:3 44:6,14 71:14,18 74:2,5,11	chance 218:2	college 34:9,11 36:13
	bottom 153:23 184:14		changed 170:20 171:2 254:3	Colorado 240:23 241:2,5,8
	box 75:24			combined 226:4
	Breach 148:12,14			comfortable 30:19
	break 14:11 57:15,19 59:4,8,12,16 118:13 119:2 144:8 153:20			commenced 177:5 178:2,14 185:17

commencement 141:6 245:25 246:11, 23 255:3,17	10,14,18,25 50:20,24 51:5,8,13 53:17,18, 20,23 54:8,16,20 55:3,9,11,16,19,23 56:4,7,11,15,20,24 57:3,7,12 161:23,25 174:11 211:15,21 212:2,9,16,21 213:8, 14,25 214:2,4,6,15, 21 215:4,9,12,22 216:5,12 231:13,14, 16 232:7,13,18,20,21 233:6,17,24 234:22 243:20 250:7,13,17 251:15,21 252:8	conferred 17:12 49:4 confirm 102:19 conflict 189:17,24 connection 21:19 29:17 31:11,24 237:16 245:5 247:22 248:22 consequence 204:17 206:19 considered 174:10 232:17,19 consistent 158:2 consult 244:23,25 253:14,17 Cont'd 155:9 contact 219:10 context 13:3 35:19 174:18 182:12 continue 239:14 continuous 34:2 Contract 148:12 contractor 33:19 control 161:21 163:6 164:22 173:10,16,20 195:4 198:23 199:17 201:8,15 202:17 203:6,10,17 229:11, 17 controlled 60:24 96:24 97:19 189:17, 25 controls 199:23 convenient 207:21 conversation 61:2 87:10,12,15,17,19,23 88:8,12 99:11 183:4 188:8 194:5 219:11, 16,19 220:4,10,14,16 conversations 20:17 86:12 99:12,15 101:6 171:12 183:2, 18 191:12,25 192:21 193:20,22,25 237:23 240:10	copies 13:7 115:25 copy 141:20 144:23 146:23 147:5,24 157:7 158:17 160:2 Cornerstone 65:10 72:6,7,12,22 73:3,8, 12,17,22,24 74:14, 19,25 76:13 80:4,8, 13,20 174:8 Cornerstone's 73:25 74:5,11 corporate 95:22 130:10 230:5,13 231:4,12,14,15 232:6,12,22 233:4 correct 15:5 18:9 20:15 22:22 24:15 26:23 27:6,15 34:4, 15 39:14 53:9 55:4 62:23 72:9,14 81:11 85:23 88:6 92:5,6 99:14 101:17 111:4 115:9,10,15 117:7, 10,14 123:5 125:16, 21 137:6 140:24 146:5,6 151:23 162:10 163:7,8 164:23 165:19,20,24, 25 166:4,15,18 168:6 170:4,13 171:23 172:11,14,16,20 173:7,23,24 174:21 175:3 177:5 178:2 179:12,18 180:20,23 181:5,6 182:16,17 185:4,5,10 187:16 188:25 189:2 190:21 192:4,9 196:18 200:6 201:2,21 202:21 203:22,23 205:13 206:4,15,16 209:4,5, 11,12,17 210:3,6,12, 13 212:23 213:9,10, 15,23 214:16,17,22, 23 215:5,6 216:20,21 219:3 221:5,11 222:19 223:8,9,21, 22,23 224:9,21,22 225:3,4,6,7 226:23 227:13,15 228:8,9, 17,18 232:2,9,10,14, 22 233:7 234:2,11,21 235:11,13,17,20	237:7 240:2,5 241:24 242:16 245:6,7 247:2 255:6,20 correctly 162:5 corroborate 128:20 152:7,12 cost 69:3,8,14 70:22 71:5,10 73:16 77:25 78:6,11 79:7,14,20 80:9,14,21 161:20 163:5 164:21 174:23 196:16 197:9,17 198:4 202:2,3,4,10, 18,20 203:21 204:16 205:12,25 206:13,18 209:9 210:11 221:4, 13 222:4,15 223:6,14 224:5 costs 31:9,22 counsel 8:9 22:22 27:10,13 28:6 67:17 244:23 245:2 253:14, 18 counterproposal 197:6,14,23 199:13 couple 15:17 24:8 51:19 57:16 67:23 79:25 courses 48:21 court 6:17 8:7 10:17 14:16,20 105:4 177:8 courtroom 7:17 cover 144:7 176:11, 17 185:22 186:10 187:3 208:22 covered 49:23 177:3,24 181:8,17 186:14 208:21 covering 170:9 COVID-19 7:6 created 167:2 180:25 245:24 246:10,23 255:2,17 credibility 239:11 creditor 43:14 Crescent 33:2,12,15, 18,23 34:2,7 36:12,
--	---	---	--	---

23 41:2 43:11,18 47:15,18,23 48:3 current 39:5 cut 249:23	184:8 218:17 219:22 234:8,9,11,16 236:25 252:22 dated 184:11 dates 25:5 128:17 Daugherty 118:20 Davor 13:16 day 15:20 40:2 149:6 178:20 192:15 258:13 day-to-day 33:14 days 193:8 deal 195:6,8 228:2 239:17 Deborah 9:7,15 13:21 19:12 25:7 27:11,12,21 57:17 58:4 155:14 159:14, 25 164:3 176:5 Deborah's 17:20 27:19 Debra 8:6 debt 67:10 December 160:10 161:13 162:24 164:16 172:18,25 173:18 decided 23:16,18 decides 202:17,19 decision 60:21 61:13 247:22 decisions 48:13 169:7 defendant 20:23 21:2,5 31:13,18 130:10 157:15 159:19 161:15,21,23 176:13,19 252:17 defendants 8:10 13:18 27:14 129:24 defender's 38:4 defending 13:17 defense 28:23 32:16 162:14	defenses 20:18 21:8,14 deferred 174:10 213:25 231:16 232:17 defined 76:22 98:7 144:11 146:8 187:21, 24 definition 29:13 62:13 119:24 150:18 187:24 definitions 15:18 degree 34:9,18 degrees 34:23 Deutsch-perez 9:8, 15 13:22 19:8,14 22:23 23:7 24:22 25:15,24 27:13 28:3, 12 30:6,16 31:5 42:16 46:12,20 52:10 69:24 80:2 81:16 82:2,12,20 84:6,13, 20 89:6 96:14 97:2,5 104:14,21 105:2 108:9 109:11,17 112:15 113:17 116:9 118:3 120:2,22 121:23 122:11,19 123:23 124:7,15 125:5 130:2 131:7 132:8,15 133:15 135:7,21 137:7,14 138:17 140:12 142:19 143:2,8,15 144:15,17,19,24 145:7,15 147:11,14 148:17,20 150:10 155:15 156:16,24 158:16 159:10 163:16,23 166:5,9,16 169:19 175:24 176:6, 20 177:6,14 178:6 179:5,16 180:21 181:12 185:11 186:2, 15,19,23 187:17 188:2,10 189:20 190:4 192:17 198:16 199:19 204:3,21 209:18 210:4 213:16 221:7,14 226:18 227:22 230:7,14,18 231:5 232:15 233:8,	20 234:3 235:2,18 238:3 240:19 241:25 243:9,24 247:6,12 257:19 Deutsch-perez's 26:14 demand 117:2,23,25 118:5,8 128:16 207:9 223:11 demands 33:20 161:9 denied 246:5 denoted 145:13 deny 246:6,18 depending 201:20 deposed 11:12 deposition 6:12 7:10 10:10,14,23 11:17 17:2,5,13 18:7,15 19:5,22 28:4 156:5 157:14 158:3 245:6 258:5 describe 35:4 37:9 88:10 183:2,8 designation 238:21 detail 88:9 detailed 220:5 details 98:20 determination 70:20 determine 69:7 74:10 77:21 79:18 80:18 85:13,21 94:18,22 106:2,16 109:6 114:13 115:3 122:17 131:25 133:3 137:24 142:24 213:7 215:21 determined 142:12 differ 256:16 difference 226:6 256:3 differently 206:22 difficult 11:25 12:3	diligence 71:23 direct 33:3 41:9 47:7, 12 65:22 150:11 233:5 239:16 directly 40:18,23 41:5 42:5,9,13 65:14 director 45:6 47:3,11 directors 38:23 directs 15:10 disagrees 8:14 disbelieve 152:9 discovery 243:21 252:15 254:13 discrepancies 38:6 discuss 21:12,17 150:8,17 discussed 62:15 98:12 142:11 174:7 180:15 181:21 218:22 228:4 248:2 discussing 193:24 219:6 241:15 248:13 discussion 191:4,9 192:5 discussions 150:12 191:15 dispute 238:20 distancing 7:8 distributions 214:3 division 36:16,17 DOC 160:8 docket 160:5,8 document 12:24 13:2 16:16 102:24 145:12,13,21 146:2, 8,11,15 147:9,15,20 148:9 149:14,18,20 157:7,12 158:6,8,11, 15 160:14,18 184:3, 24 211:4 243:22 244:5,7,13,19 245:4, 11,24 246:10,22 247:17,20 253:3,10, 25 255:2,16 256:9
--	--	--	---	---

documents 12:21 13:8 19:4,6,19 89:16 103:6 237:15 248:4 249:16,19 dollar 174:24 203:20 204:16 205:12,25 221:4,13 237:25 242:8 dollars 59:21 60:8,9, 14,22 61:4 137:5 237:9 240:12 Donder's 157:16 Dondero 7:1 8:1 9:1, 4,6 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1,21 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1,11 42:1,18 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1, 25 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1,25 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1,11 149:1 150:1 151:1	152:1 153:1 154:1 155:1,11,23 156:1 157:1,15,24 158:1,22 159:1,18 160:1 161:1,15,23 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1,8 179:1 180:1 181:1 182:1 183:1 184:1,5,10 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1,8 205:1 206:1 207:1 208:1 209:1 210:1 211:1,6,13,20 212:1,22 213:1 214:1 215:1,11 216:1,3 217:1,2 218:1 219:1 220:1 221:1 222:1,25 223:1,7,19 224:1,3,9 225:1 226:1 227:1 228:1,6,20,25 229:1 230:1 231:1,9 232:1 233:1 234:1 235:1,6 236:1 237:1 238:1 239:1 240:1,9 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1,8,17 253:1 254:1 255:1 256:1 257:1 258:1,2, 9 Dondero's 52:3,9, 16,24 53:6,16,22 54:15,20 55:3,15,19, 23 56:3,6,11,15,20, 23 57:3,7,11 67:20 159:8,19 161:21 163:6 164:22 198:23 203:9,17 211:2 214:15,21 215:4 double 138:20 Douglas 9:19 57:21 58:9 164:9 210:17 238:18 240:4 257:2	Draper 9:19 22:16,21 23:5,12,15,16,19,22, 25 24:5,7,17 26:3 57:20,25 58:16 163:24 210:16 238:12,19 239:9,19 240:6 257:24 driver's 35:2,6 drugs 11:8 Dubel 39:2 due 7:6 71:22 93:22 94:23 138:5,15 139:4 225:11,22 226:7,9 228:17 Dug 108:4 Dugaboy 15:21,23 16:23 19:9 22:11,13, 17 23:5,23 24:19,24 26:3,7 30:5,14 31:3, 18 32:12 50:17,18,22 51:3 52:8,15,23 53:6 55:22 56:2,14,19 57:6,10 67:21 68:2, 12,17,21 69:2,6,12, 17 70:10,14,20 71:3, 8,22 72:20,25 73:6, 11,15,20 74:9,13,17, 23 75:12,17 76:6,10, 15 77:5,10,15,20,25 78:5,10,14,19,24 79:4,11,16 80:6,11, 17 83:21 84:3,24 85:6,11 86:4 89:3,20 90:8,9,12,16 91:8,12, 16,23 93:6,11,15 94:6,11,16,20 95:4,8, 13 98:5 99:4,21,25 100:6,16,22 102:3,9, 14,18 103:19 105:21, 25 106:5,7,11,15,19, 23 107:8,13,17,22 108:5,17,23 109:4 110:4,16 111:10,21 112:5,20 113:2,10,23 114:7,12,16,21 115:2,18,24 116:6,14 117:16,18 120:7,11, 15,19 121:2,8,13,20 122:2,7,15,23 123:20 124:4,10,18,24 125:23 126:4,11,15, 21 127:2,9,12,14,19, 24 128:6,19 130:14, 20,24 131:4,12,17,23 132:5,11,20,25 133:12 135:11,17 136:4 137:11,17,22 138:12 139:10,14,18, 23,24 140:4,8 141:4, 7,13,18,23 142:22 143:5,11,18 150:22 151:7,8,10 152:8 153:8,13 156:14,22 157:11 163:19 164:14 165:8,12,13, 19,22 166:2,13,19,25 167:8,15,18,25 168:3,10,14,16,20 169:3,7,10,12,16 171:5 172:22 176:24 177:21 178:9,15,21 179:2,9,11,14,19,22 180:12,19,24 181:4, 19 182:16 197:13,22 198:11,15 199:6,12 200:8,20 201:4 203:13 204:7 205:10, 15 206:5 208:25 209:8,15,25 210:9 211:18 212:6,13,20 213:4,6,12,13 214:13,14,19,20,25 215:2,7,19,25 216:8 217:14,20 219:9 223:6,18 225:13 227:9,10,16,17 228:14 232:5 235:9, 21,25 236:4,17 237:3,8,16 238:5,13 239:6 240:2,12 241:10,13,19,22 242:7,18,22 243:2,4, 14,15 248:3,23 249:5,7,10,15 251:12,15 252:6,7,18 253:21 254:5,25 255:16 256:5,15 Dugaboy's 22:22 162:11 170:14,19 171:2 237:24 252:15 duly 8:20 duty 148:15 196:20 197:2 <hr/> E <hr/> earlier 38:12 59:19	72:9 76:22 101:14 119:25 146:8 174:7 194:3 208:22 213:21 225:9 236:11 256:10 early 173:14 Eastern 256:22 economic 40:19 65:22 224:25 227:11 education 166:21 168:22 237:5 effect 6:15 efficient 11:24 effort 68:22 69:7 73:6,20 74:7,10,23 75:13,18 76:7,11,16 77:20 78:10,25 80:17 85:12,19 91:17,24 93:16 94:17,21 95:13 100:6 106:2,16 107:9,23 109:5 114:13 115:3,24 120:16 121:14 122:8, 16 124:19 126:12 127:3,24 130:25 131:24 133:2 137:23 139:19 141:19 142:22 153:9 194:25 201:12 212:14 213:6 215:3,20 229:9 Either/or 172:14 elaborate 41:7 143:23 elderly 191:6 Electronically 9:19 element 229:10,16 Elms 9:16 27:5,7,9, 18,22 243:25 244:3 247:11,14 email 21:25 employed 32:22 45:2 46:10 47:5 48:8 employee 39:6 46:22,25 81:14,23,24 83:3,10,16,24 84:5, 12,18 85:9 88:25 89:4 90:18 employees 33:17
---	---	--	---

47:25 81:4,9 85:3,16 86:6 87:6 88:15 90:2 101:16	11 53:25 103:10,14 119:6 129:5,8 165:15 207:13	existence 246:25 255:19	Family 191:6	Florida 36:21 190:24
employment 34:5	entry 192:22 248:22	existing 140:10,17	father 191:5	follow 161:5
encourage 54:12	equity 67:11	expect 203:7 257:3	fault 188:11	follow-on 164:6
end 152:18 172:8 191:23 193:23	equivalent 37:18 227:20	expecting 138:14	favor 95:10,15,18 100:2,8 115:8,13,20 116:3,7 117:6 127:15,21 128:2 133:13,22 135:5,14 140:20 141:9,16,21 142:2 173:10 235:22	force 6:15
energy 229:9	error 29:11	experience 48:12	February 161:14 162:25 164:17 172:19,25	forgave 84:10 90:3, 17 91:9,14 100:12 102:16 103:3
engagement 24:25	established 61:10	expert 48:17 49:5 61:20	Federal 7:19	forgivable 162:2
enter 166:3,14 170:5 176:25 177:21 178:9 189:6 200:8,20 211:18 213:4,12 214:13,19,25 217:20 243:4 247:22 249:7	estate 35:7,25 120:6, 9 237:13 240:17	expertise 152:4	feel 30:19	forgive 161:18 163:3 164:19 206:20
entered 29:17 162:23 163:10 164:15 165:15,23 169:12,18 170:2,16, 21 171:20,25 172:6, 23 173:4,14,21 174:13,19 176:16 179:11 180:2,11 182:14 185:20 186:7 187:2 191:19,21 192:16 193:9 196:21 203:13 204:2,10 205:6,14 206:6 208:24 209:7,14,23 210:7 212:19 218:7, 18 221:16 222:16 223:5 224:2,14,23 225:13,20,24 226:8 227:8,18,25 229:21 232:5,25 234:10,17 235:9 241:12,23 242:3,5,19,22 243:16 248:17 250:24 251:6, 17,23	evening 8:6	experts 61:17	fiduciary 35:25 36:2 148:15	forgiven 85:3,8,14 86:6 88:25 89:5 90:10,14 91:18,25 100:17,24 101:25 102:5,11 174:6,10 175:2 194:9 196:15 197:8,16 198:21 200:10,22 201:5,17 202:6,10,18,20 203:22 205:13,17 206:14 207:5 221:12 223:12 227:4 228:22 229:14 231:12 232:6 234:14 235:10
entering 171:4 196:25 207:10 208:6, 16 212:12 215:20 216:2,9 248:9 249:11,16	event 224:17 235:11	explain 183:21 207:8	file 40:6	forgiveness 65:20 201:19 204:18 206:2 220:18 222:13 224:20 226:17 229:3 232:11 235:15 250:16
entirety 93:24 94:4	exact 213:17	explained 158:2	filed 39:14,25 40:10 160:10	forgives 29:10
entities 60:23 93:2 95:23 185:24	EXAMINATION 8:24 155:9	express 220:22 228:20	filing 6:5 16:5,6 43:17	forgiving 84:17 87:6 88:14 89:22 101:21 102:20
entitled 229:3	examined 8:21	extended 153:22	finally 256:11	forgotten 79:24
entity 16:3 33:4 41:16 45:8,11 47:6,	examples 215:15	extent 68:23 163:25 164:3	financial 14:3 44:11, 25 48:8 50:5,13 61:24 62:2,5,14,16, 25 63:5,8,11 75:19 76:8,12,17 106:8,13, 17 151:18 228:10	form 6:9 21:23 22:24 23:8 30:7,17 31:6 46:13 64:4 68:18 69:25 81:17 82:3,13, 21 84:7 89:7 96:15 97:3 104:15 108:10 116:10 118:4 120:23 121:24 122:12,20 123:24 124:8,16 125:6 130:3 131:8 132:9,16 135:8,22 137:8,15 138:18 140:13 142:20 143:3, 9,16 156:17,25 166:6,17 176:21
	exceeded 70:22 71:5 174:23	extra 218:3	financials 62:19	
	exchange 81:7,25 99:18 115:9 126:18 227:20	F	find 38:7 39:24	
	exchanged 126:24	face 90:13 224:6	finding 35:22	
	exclude 150:11	face-to-face 191:21	fine 46:18 70:5 138:23,24 231:10	
	executed 84:4 100:8 115:20 117:5 127:15 128:2 185:23 186:10 187:4,14 188:22 230:12 231:2 233:2	fact 8:11 46:7 88:21 153:14 216:11 223:17 228:11 239:23 244:25 253:17	finish 12:6,11 113:21 175:12 235:7 257:3	
	executing 237:15	factors 195:3	finished 236:14 254:21 255:11	
	executive 48:13,17, 21 49:2,6,9,14,17,24 50:19,24 51:4	facts 125:17	firm 26:9,14,15,16, 23,25 33:13 36:15	
	executives 50:4,12	factual 30:23	fit 119:24	
	Exhibit 145:12 148:7,10,11,18 157:14,15 159:7 160:15 184:4,5 252:14,17	fail 12:13		
	exist 106:20	failed 81:15,24		
	existed 88:22 106:24 107:10 121:15 131:19,25 241:22	fair 12:8 19:8 25:4 33:9 61:19 62:20,23 83:19,20 88:5 92:14 151:22 238:8 246:21 255:14		
		familiar 16:10 38:10 129:5 144:5 184:25		

179:6,17 180:22 181:13 185:12 186:3, 20 187:18 189:21 190:5 192:18 198:17 199:20 204:4,22 209:19 210:5 221:8, 15 226:19 227:23 232:16 233:9,21 234:4 235:3,19 240:20 242:2	63:22 82:7 133:19 193:25 213:18,21	happen 195:7 228:19 234:18	heard 29:2 45:8 63:14 75:3 103:10 119:5 177:9	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
formed 36:11 92:11 166:22	generally 29:7 35:19 36:8 37:10 42:25 63:21 98:16 99:4 110:10,15 133:17 250:7,12,14,17 251:20	happened 88:3,4 205:3	hearing 231:6	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
foundation 50:8 84:14,21 112:16	generations 168:25	happy 118:13 213:2 255:25 257:2	hedge 43:5,7 44:2	
founded 39:10	gentleman 202:16	hard 13:7 144:23 157:7 158:16 159:25	held 68:19 151:7,8,11	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
fourth 16:10	give 11:22 15:15 19:9 29:12 59:17 64:17 81:15,24 86:3 97:8 103:9 157:8 158:17 218:2 228:25 231:19 234:24	hate 207:18	helm 222:17 224:11	
frame 92:16 119:14 241:5 248:25 249:20	giving 232:13	HCM 14:3	helpful 134:21	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
Fraudulent 148:14	glance 160:2	HCMFA 230:15	high 222:21	
Friday 18:19	good 7:2 28:19 43:13 83:12 113:19 127:10 145:9 154:3 228:2	HCMLP 162:4	higher 174:9,12,14, 17,20 194:11 198:3 205:16	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
front 148:23	graduated 34:13 36:10	HCMS 103:15,17,20, 24 104:13 106:20,25 107:11,15,20,25 108:3,6,19,25 109:6, 10 110:5,13,17,21 111:3,6,12,17,23 112:8,11,22 113:4, 11,12,25 114:8,14, 17,23 115:3,7,13,20 116:2,7,20,23 117:5 118:8 162:12,19 175:19 186:11 187:5, 12 188:21 230:3,12 231:3,18,24	Highland 10:8 15:25 16:3,12 24:17 38:12 39:6,9,13,25 40:7,10, 20 41:24 42:2,7,11, 14 43:12,18 44:2,18, 19,23 45:3,6,15 47:16,19,25 48:4 51:9,14 53:7,25 54:2, 16,21 55:10 56:7,21 57:8,12 60:8,15 61:5 63:16,20,24 64:2,10, 14 65:11,14,22 66:6, 13 67:4,10,13 73:11, 21 81:3,8,9,13,22,24 83:4,10,16,24 84:5,9, 12,16 85:2,8,13 86:5, 9 87:5,9 88:13,18 89:5,24,25 90:2,4,17, 25 91:5,9,13,14,17, 24 92:4,8,24 93:7,12, 17,21,23 94:8,13,18, 25 95:10,15,19,24 96:5,9,11,13,20,21 97:24 98:2,5,10,21, 25 99:5,6,17 100:3,8, 9,11,17,24 101:24 102:11,16 103:3,11, 25 104:7 106:21,25 107:10,14,19,24 108:7,20 109:2,7,9 110:5,11,17,20 111:6,11,17,22 112:7,14 113:6,13,24 114:8,13,19,24 115:5,8,13,21 116:3, 8,20,24 117:6 118:8 119:9,16,21 120:20 121:3,11,16,22 122:5,10,18,24 123:11,16,21 124:5,	
fulfillment 161:11 232:8	great 154:5 218:5 220:25 228:12 240:6	HCMS's 105:19,22 106:2,8,12,17	Highland's 22:17 42:23 43:3 44:5,14 45:18,21 46:4,8 62:16,18,21,24 63:5, 8,11 67:8 68:3,14,23 69:3,7,14,19,22 70:7, 11,16,21 71:4,10 72:12,22 73:2,7,16 74:14,19,25 77:7,12, 16,21,25 78:6,11,15, 20 79:2,6,13,18 80:8, 13,19,20 89:21 103:20 129:12 200:3 206:25 209:3,9,16 210:2,10 227:11	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
full 15:19 94:8,14	greater 161:20 163:5 164:21 196:16 197:9	HCMS's 105:19,22 106:2,8,12,17	highly 51:18	
fund 43:5,7 44:2	Greenberg 27:2 32:3,9,12	HCRE 119:6,8,13,16, 24 120:20 121:3,10, 16,21 122:4,9,17,25 123:11,16,22 124:6, 13,20 125:2,18,25 126:7,13,16,22 127:4,15,20 128:2,8, 15,22 162:12,19 175:18 186:11 187:6, 12 188:21 230:3,12 231:3,18,24	hired 35:24 37:14 46:21	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
fundamentally 238:22	ground 11:23	HCRE's 120:4,8,12, 16	hire 26:2 27:16	
funds 41:24 44:12	grounds 239:8	head 30:22 35:10 65:2,3,6 89:2,9	hold 13:15 34:25 35:5 41:10 48:16 163:25 252:3	12,20 125:25 126:7, 13,18,23 127:5,16,21 128:3,8,15,22 129:19 131:6,14,20 132:2,7, 14,23 133:4,6,14,23 135:6,14,18 137:13, 19,24 138:7,13 139:3 140:11,21 141:9,16, 21 142:2,17 143:14, 25 157:10 158:23 165:10,15,16 169:11, 17 170:15,19 171:2 173:10,16 177:2,22 178:11 185:8,17,24 196:10 200:9,21 202:21,23 203:4,7,14 204:17 206:7,8,13, 17,23 208:3,7 211:19 212:22 213:15 214:16,22 215:4 217:25 218:6,9 222:18,23 223:21 224:3,8,11 225:2 226:16 227:19 228:3, 14 231:19,20,25 235:23,25 236:5,18 237:10,17,21,25 240:13 241:11 242:9, 20,23
future 59:13,17 82:19 207:21 227:14 234:2,7,16,19 235:10	guess 256:22 257:6	health 166:21 168:22 237:5	holds 150:6,7,22	
<hr/> G <hr/>	guru 228:10	hear 38:16 58:25 97:6 155:18,22 177:9 211:6		
gain 223:20 224:8	guys 153:19			
Garcia 7:3	<hr/> H <hr/>			
gave 11:17 59:8 81:9, 13,22 90:25 99:6,17 116:18 125:25 129:2 144:14 159:25 217:25 231:25 256:17	half 17:17			
gears 80:23 157:3	hand 159:12			
general 11:23 29:8 45:16,18,21 46:4,8 50:6,8 51:15,17	handled 24:17			
	hands 225:5 226:21			
	handy 13:9			
	Hang 145:7			

holidays 172:4	218:13	213:9 215:9,13,23 216:5,13	interests 42:7	98:12,22 99:13 101:7 105:9,13,16 116:21 128:12,13 129:20,22 130:9 136:9,10 151:19 168:2,3 171:12 182:24 187:9, 12 188:20 194:2,23 195:23 198:22 199:4 201:11 202:13 203:19 205:11 211:13 218:2,3,6 228:3 231:16 241:18 252:8
Honestly 218:14	inaccurate 245:10 253:24	Info-back 36:18	interpret 255:15	Jim's 104:2,5,9 168:7,11 189:8 191:5 197:18 199:4 203:5 207:2 240:23
Hotel 34:19	incentive 218:3	information 51:11 61:24 66:3,12,18 69:11,13,18 70:15 72:16 76:25 86:4,14, 17,22 88:19 89:21 98:19,24 101:19 105:15 106:8,12 112:11,21 114:4 116:19 120:8 124:25 125:8,23 126:6 128:25 168:15,18 209:15,25 216:17,19 238:14 246:6,17	Interrogatories 252:20	job 37:13
hour 18:23 113:18 153:23	include 62:7,10 178:18 198:25	initiated 139:9	Interrogatory 247:4, 19 250:3,19 255:22 256:4,12,17	John 10:6 13:15,19 14:4 24:22 39:2 52:11 54:24 57:20 58:16 68:7,20 70:2, 24 81:18 82:24 84:8, 22 89:8,19 91:21 92:9,13 95:2 97:4 98:3,15 100:4,19 101:17 102:7 103:4 105:17 108:2 109:3 111:8,20 112:17 113:7,19 114:20 116:12 122:13 123:25 125:7 130:7 132:17 134:4 140:24 142:21 147:8 158:13 159:2 163:17,24 166:10 169:15,22 171:7 175:8,24 178:20 182:6 184:25 186:4 188:7,13 192:24 193:14 197:10 200:15 201:22 203:11 204:23 206:23 207:17 208:8 209:21 210:6,16 212:24 215:14 216:6 220:11 221:16 222:6,16 224:11 227:24 228:9, 24 231:22 233:13 236:8,25 237:18 238:12 242:4 243:10 245:12 248:15 249:2, 19 254:10 255:13 256:7 257:14
hours 17:17,18	included 241:19	injury 11:18	intervene 229:17	
house 191:2 240:23 241:2,4,8	including 109:22 186:17 213:25 214:2, 3 230:15 250:8	inquiries 85:17	intervening 226:11	
hypothetical 205:4, 21,22	inclusion 183:23	instance 81:22 256:2	investigate 38:19,22	
<hr/> I <hr/>	incorporates 62:14 198:14	intend 125:18 138:4 139:3 218:8	investigation 39:5	
idea 60:25 100:15 126:3 189:5 198:15, 25 203:11,12,13	incorrect 26:12,24	intended 12:22 112:11,22 113:4,11 125:2,8	investigative 33:13 36:15 37:24	
identification 148:16 157:17 184:8 252:22	increase 195:2 206:25	intending 138:9	Investment 15:23 164:14 167:9 172:22 252:18	
identified 22:21 23:21 38:11 65:24 66:9,15,20 72:8 101:14 112:24 175:7 179:24 181:2 182:9, 12,22 195:20 251:9	increased 60:13 221:18,24	intent 113:15	invoices 32:9	
identifies 179:20	incur 31:10,23	interest 33:7 40:19 41:9,10,14,15,17 42:4,10 47:8,13 58:12,14 65:23 66:7, 13 67:8,14 68:4,14, 15,18,24 69:3,8,14, 19,22 70:7,11,16,22 71:4,6,10 72:22 73:2, 7,12,16,22 74:14,19, 25 77:7,12,16,21 78:2,6,12,15,20 79:2, 6,13,19 80:8,13,20 93:22 94:9,14,23 138:5,15 139:4 149:21 150:6,7,18,23 151:7,9,11 152:8 169:11,17 170:14,19 171:2 189:17,25 200:4 207:2 209:3,9, 16 210:2,10 222:22, 23 226:14 228:17	irrespective 187:6 227:2	
identify 24:16 26:6 27:9 65:4,8 87:3,18 88:24 101:20,23 102:4,10,14 175:4 182:19 194:20 195:15 222:25 247:20 250:23	indemnification 29:3		issue 50:23 51:4 57:21 133:16 186:16 250:8	
identifies 179:20	indemnified 31:2		issued 84:11 115:7, 13 116:2,7 118:8 127:20 128:7,14,22 133:13,22 134:2 135:5,13 140:20 141:9,16,21 142:2 158:24 162:18 230:2 235:22	
identify 24:16 26:6 27:9 65:4,8 87:3,18 88:24 101:20,23 102:4,10,14 175:4 182:19 194:20 195:15 222:25 247:20 250:23	indemnifies 30:12		items 62:15	
identity 89:4 242:14	indemnity 29:3,9		IV 148:14	
II 148:13	independent 38:23 106:16 169:6 173:11		<hr/> J <hr/>	
III 148:13	indifferent 224:3		James 38:17 157:16 159:19 161:21,23 163:6 164:22 199:16 211:20	
imagine 40:12,16 62:12 64:19,21	indirect 33:3 41:14 47:7,13 65:22		January 20:5 172:19,25 173:9,12, 19 184:11	
Immediately 36:13	indirectly 40:19,23 41:5 42:6,10,13 65:14		Jersey 36:20	
impair 11:9	individual 16:20 25:11,13,16,22 26:17 30:3,13 31:14,24 32:4,17 239:7,24 256:6,18		Jim 51:18 65:25 66:3 72:11 86:12 87:2,20 92:25 93:3,7,12	
implications 30:21	individualized 47:24			
implied 18:5	individually 66:23 165:2			
import 200:17	industry 44:18,22,25 48:9 50:5,13 162:2,4 211:15,22 212:3,9,17			
important 12:5,10 14:14 217:19,23,25				

Jones 10:7	lawyer 13:6 14:25 15:10 38:8 46:16 151:25	140:22	147:5 149:2 156:8, 11,15 172:24 243:6, 17 248:3,8	130:24 131:10,23 132:25 137:13,19,22, 25 139:18 141:18 142:22 153:8 155:22 162:13 169:6 178:22 179:2 189:10 197:5, 13 199:12 208:15 212:14 214:11 215:17,19 218:3 228:11 245:16 254:7
Jr 38:17	lawyers 15:9 150:12	lives 168:24	lunch 144:8 153:20	making 48:13 207:9
judgment 29:16	learn 60:12,20 61:9, 12 65:21 68:22 72:11 98:9,18,20 99:9 104:4,12 105:9 107:9,23 128:10 130:25 136:8,19	living 166:20	M	management 10:9 16:4,12 34:19 38:12 42:3 103:11
July 24:10	learned 44:13 45:17, 20 46:3 59:20,24 60:3,18 88:20 104:6 136:23	LLC 119:6	made 60:21 61:13 71:12 74:23 78:24 80:17 84:17 85:9,15 86:5 90:2 91:5,10,13, 18,25 92:8,24 93:7, 12,17 98:6,8,10,13, 21,25 99:5 100:25 101:15,24 102:5,10 107:22 110:5,17 111:6,11 113:24 114:8,14 115:24 123:11,16 125:4,15 126:7,13 133:6 135:18 138:16 139:5 140:11 146:16 161:14 162:25 164:17 194:18 197:22 198:15 207:12 208:5 213:6 215:2 219:13,14 223:18 226:10 236:2	Manuel 7:3
June 28:5	learning 40:10	loan 81:12,23 84:17, 25 85:8,14 86:4 88:25 89:5 90:18,25 91:5,9,14,18,25 93:22 94:7,13,24 98:6 100:18,25 101:23 102:4,10,15 116:12 135:19 137:13,20,25 138:7, 15,16 139:5,12,16,21 140:2,6,9,16 207:7 220:18 236:2,3,5,11 237:16,25 241:10 242:8 250:16	marked 147:10 148:15 157:17 160:15 184:4,7 252:21	mark 39:11 90:20 148:6,9
K	led 183:18 193:20	loaned 92:4 109:10 110:11 122:25	magnanimous 218:5	marked 147:10 148:15 157:17 160:15 184:4,7 252:21
kids 191:5	left 156:7 256:25	loans 80:24 81:3,8 87:6 88:14 89:22,25 90:9,14 92:7,23 93:7, 12,17 97:24 98:2,8, 10,12,21,25 99:5,18 101:15,21 102:20 103:3 110:5,17,20,24 111:5,12,17,23 112:8,12,14,22 113:5,12,24 114:8, 14,18,24 115:4,9 116:15,20,23 123:3, 10,16,22 124:6,12,20 125:2,4,9,11,13,19, 24 126:7,13,17,23 127:5 133:7 140:10 162:3 194:3,8 207:3, 5 208:2,5 235:24 236:3,17	main 219:10	marking 157:13
kind 28:17 29:21 35:2 36:6 42:10 49:9,13 254:11	legal 7:4 30:18,21 32:15 249:10	located 9:5	maintenance 166:21 168:22 237:7	matter 11:15,20 24:16 27:23 30:23 43:22 223:4 233:2
knew 68:15 80:10 118:6 182:7 210:9 212:21 213:13 214:14 218:20 219:4 220:20 224:18,25 241:22 242:7,12	lender 189:18 190:2	long 17:15 18:20 33:22 118:14 168:24	major 169:21	matters 27:24
knowing 183:12,14 229:23	letting 54:12	longer 199:23 239:9	majority 149:20 150:6,7,18,23 151:7, 9,11 152:8 161:16 165:14 250:25 251:7	maximize 196:20 197:2
knowledge 50:3 55:25 56:5,18 67:7 84:24 110:22 113:24 119:24 162:8 167:5 172:17 176:24 177:20 185:10 246:5	levels 161:25 211:15, 21 212:2,9,16 213:8 215:9,13,22 216:5,12	looked 156:8 206:22	make 13:20 68:21 69:6 70:20 73:6,20 74:7,9 75:12,17 76:6, 10,16 77:20 78:10 79:16 85:11,17,19 91:16,23 93:15 94:16,20 95:13 100:6 105:25 106:15 107:8 109:4 110:21 111:17, 23 112:8 114:12 115:2 120:15 121:13 122:7,15 123:22 124:6,12,18,20 126:11 127:2,24	meaning 251:21
L	library 71:16	loss 62:7 229:12	LP 10:9 16:4,8,13,16 38:13 42:3 129:6 144:10 146:9,19,23	means 29:6 117:25 149:24 250:15
La 148:3 160:21	license 35:2,5,6,13, 20	lot 37:2 242:22		meant 174:15
lack 246:17	licensed 35:14			medications 11:9
late 27:8 28:10 172:15 173:14	licenses 34:25 35:9 36:5			meet 17:8,15,19
law 9:7 10:18 26:14, 15,16	lifestyle 168:23 237:5			meeting 17:25 18:12 21:24 191:21
law 9:7 10:18 26:14, 15,16	lifetime 169:4			meetings 18:13,18, 21,22 19:2 20:2
lawsuit 27:14 31:11 111:2,7 123:18 134:3 135:15 137:6 185:16 187:7 225:17	limited 16:11 42:6 144:10 149:25 150:5 169:22 207:11			Melissa 151:12,16, 18 218:20,23,25
lawsuits 20:23 21:2, 5,10,15,19 28:18,23 29:23 31:15,19,25 32:17 111:14 123:13 129:25 130:10 162:20 176:12,18 177:4,25 178:14 180:10 181:10,19 183:23	list 175:9,14,25 178:22 179:2			memorializes 246:12 255:4
	listened 219:13			memory 11:6 25:4 43:23 149:9 176:3 181:10,22 219:5,8 236:6,8 238:23
	litigation 8:10 20:8, 13,19 25:17 26:10 27:17 58:5,12,14 157:5 238:20,25			
	litigations 24:19 29:18 123:8 134:25			

242:17	monetized 194:10 201:16 205:16 222:20	motivate 218:2 222:2,8	195:10,17,19	notes 8:10 20:7,12 24:19 25:17 53:11 81:10 95:18 99:7,18 106:21 107:2,11 109:18,22,25 110:25 111:13,24 112:13,24 114:10 115:8,19 116:2,7,16 117:5,9, 19 118:7,9 121:5,6, 11,17 123:4,7,12,18 124:14,21 125:3 126:2,9,19,24 127:6 128:7,11,14,21,25 131:15,21 132:3 133:13,22 134:2,7,9, 24 135:4,13 139:8 140:17,22 158:24 161:11,18 162:18 163:4,11 164:20 170:7,9 174:4,5,9,24 175:5,10,15,17 176:12,17 178:13,18, 22 179:3,10,25 180:9,14,17,19 181:3,9,18,24 182:2, 9,19 183:3,9,15,22 185:23 186:10,14 187:10,12,13 188:20, 21 196:14 197:7,15 198:20 200:9,21 201:4,17,20 202:5, 10,18,20 203:21 204:20 205:12,17 206:3,10,15 207:9 208:15 220:2 221:12 222:14 223:11 224:20 225:11,22 226:17 227:4 228:17, 21 229:3,14 230:2,5, 11,13 231:2,4,12,20 232:2,6,12,22 233:2, 5 234:13 235:10,15, 22 250:9 256:24
mental 219:14	money 43:15 92:5 109:10 110:13 122:25 206:20,24 207:13 208:3,7 215:16 221:25 231:19,25 234:24 240:16	motivated 221:3,20 222:11 223:2	neighborhood 136:13	noticed 58:2
mention 195:4	Montgomery 58:4	motivation 221:22, 24 223:25	Nelms 39:2	number 11:14 36:4, 19 45:19 47:20 64:18 67:15 89:25 90:11 93:4,16 144:18,19 145:14 160:6 213:17, 19,21 223:13 239:2, 4,10 247:13
mentioned 18:4 37:4 86:18 128:16 190:17 236:19 240:15 243:7	months 24:8	motivator 220:25 221:18	Newman 58:4	
met 17:6 90:22 221:19	morning 7:2 40:3	move 195:12	News 40:4	
MGM 65:10 66:24 67:4,8,11,14 68:4,14, 16,24 69:4,8,15,19, 22 70:7,11,16,22 71:4,11,14,24 75:19, 20,22 174:8	Morris 7:22 8:4,25 10:6 14:5,8,10 19:12, 15,17 25:6,20,25 30:9 35:17 42:19 46:14,23 52:12 57:16,23 58:8,17,24 67:16,22 80:3 82:4, 14,15,22 96:16,17 97:8 104:17,19,23 105:6 108:12,22 109:13,20 113:20,22 118:12,24 120:24,25 130:5 131:9,11 133:18 138:22,25 144:16,18,21 145:3, 5,10 147:16,18,21 148:3,19,21 150:13, 16 153:18 154:2,6 155:10,14,16,17 156:18 157:12,19,23 158:19,20 159:5,13, 17 160:14,21 163:20 164:8,12 166:7,12 176:4,7 177:13 178:3,7 181:14,15 184:2,9,13,16,22 185:14 186:18,21,24 187:21 188:14 192:19 195:11,13 204:5,6 207:23,24 209:20 210:14,25 211:5 213:18 216:23, 25 226:20 230:9,10, 16,22,25 231:8 233:11,22,23 234:5 235:4 238:11,17 239:2 240:3,7,8 243:11,13 244:6 247:18 252:2,4,13,23 256:21 257:14,21,25	moving 55:8 255:7	Nexpoint 14:2 129:4, 6,9,12,18 131:5,13, 20 132:2,6,13,22 133:3,7,13,22 134:2, 14,24 135:5,12,19 136:20,24 137:4,13, 20,25 138:4 139:5,25 140:6,11,20 141:9, 16,21,25 142:18 143:14 162:13,19 175:18 186:11 187:5, 12 188:20 230:3,13 231:3,18,24	
MGM's 71:18 76:8		murder 38:5	Nexpoint's 130:15, 18,22 131:2 136:5	
Mid 27:8		mute 97:7	nice 153:19	
middle 146:2 211:8		muted 164:2	Nodding 155:15	
million 51:21 59:21 60:7,9,14,22 61:4 136:12,17 137:4,19, 25 139:12,16,21 140:9,16 141:11,15, 20 143:12,20 175:21 204:19 205:20 206:13,14,18,20 207:6 222:14 224:19 225:18 226:4 236:7, 21 237:9,24 240:11 241:8 242:8	N	N 148:11 157:15 184:5 252:17	noise 97:6	
mind 88:12 218:14 232:12,24		nail 52:20	normal 12:2	
minute 145:8 160:2		named 38:17	north 225:18	
misspoke 177:10 230:20		names 15:19 215:18	notary 8:21 35:8	
misstate 104:22		Nancy 9:4 41:11 42:17 161:15 164:4 258:9	note 65:20 81:15,25 82:8,17 83:2,9,15,22 84:4,11 91:2,6 95:4, 9,14 99:21 100:2,7, 13 115:12 127:14,20, 25 129:24 134:14 135:3,20 136:6 137:5 138:6 139:5 140:20 141:5,8,15,20,25 142:4,7,13,17 143:13,20 144:2 161:14 162:25 164:17 177:3,24 184:6,11,21 185:2,9, 18 187:4 219:13,14 224:7 241:19,22 242:14	
mistake 159:13		nature 33:6,11 42:23 43:3 44:5,14 67:8 68:3,13,18,23 71:13, 18 72:21 73:2,7,25 74:5,10 75:6,10,14 77:6,11,15,21 105:18,22 120:4,8, 12,16 130:14,17,21 131:2 209:2	notebook 243:24	
mistaken 90:7 180:16		NAV 152:19,25 153:5,10,15	noted 25:23 155:3 258:6	
moment 51:14 98:17 170:15 200:11,23 224:14 227:3		needed 208:3,7 221:22 237:8		
Monday 258:5		negative 7:25 138:20		
monetization 235:12		negotiate 194:23		
monetize 174:8		negotiated 194:21		
		negotiation 143:13, 21,22,23 193:16		

numbers 54:4	obtained 93:23 94:7, 13,24 102:15 113:6, 12 114:18,24 115:4 116:20,23 125:10,19 126:17,23 127:5 138:7 147:5 236:18 237:17,25 241:11 242:7	opposed 30:4 36:5	Pardon 218:24	period 92:9 93:8,13, 18 152:20 153:2,5, 10,15 171:3 226:11
<hr/> O <hr/>		oral 157:4 162:23 163:9 164:15,25 173:22 174:2 176:8 179:11 180:11 192:8, 10 193:9,15 242:20	part 85:4,14 86:7 91:20 100:25 102:6, 12 134:10 161:7,9 187:7 195:8,18 198:7,10 216:6,7	permitted 221:11
oath 6:15 8:12	obtaining 168:19	order 148:8 234:19	participants 58:3	person 17:14,16 18:7 38:17 87:18 176:24 177:20 178:8 189:14 190:19,23 191:14 192:10 196:13
object 7:24 13:24 14:25 22:23 23:7 25:18 30:6,16 31:5 46:12,16 69:24 81:16 82:2,12,20 84:6,20 89:6 96:14 97:2 104:14,17,24 108:9 116:9 118:3 120:22 121:23 122:11,19 123:23 124:7,15 125:5 130:2 131:7 132:8,15 135:7,21 137:7,14 138:17 140:12 142:19 143:2, 8,15 156:16,24 163:18 166:5,16 176:20 179:5,16 180:21 181:12 185:11 186:2,19 187:17 189:20 190:4 192:17 198:16 199:19 204:3,21 209:18 210:4 221:7, 14 226:18 227:22 232:15 233:8,20 234:3 235:2,18 238:4 239:9 240:19 241:25	occasion 238:9	organization 35:15	participate 18:25 19:25	person's 29:11
	occur 189:23 190:10, 14 218:11 219:15	originally 175:20,22	participated 87:19 191:14,17	personal 11:18 30:24 31:2,10 40:24 146:24
	occurred 18:18 39:16 40:16 153:11, 15 173:15 192:22 193:7 221:21 224:18 235:11	outcome 29:22	parties 6:4 7:14 58:5 87:20	personally 26:10,21 52:2 166:2,13
	October 39:6,17,19, 20 115:14 119:22 167:16 236:22 258:5	outline 256:23	partner 45:16,18,21 46:4,8 169:22	pertain 238:6
	offer 29:15 31:9	overheard 87:10 101:7	partners 119:6 150:2,6	pertained 171:12
	offered 31:22	oversee 33:14	partnership 16:11 42:6 144:10	pertaining 256:17
	offhand 24:21 218:21	owed 136:15 206:21 225:16	party 202:24 225:6 226:22,25 227:6,12	pertains 37:11
	office 9:7 17:20 38:4	owned 33:23,25 42:6,10 60:24 64:2 65:14 169:11,16	past 233:19 234:23 235:16	petition 39:21 42:24 43:4 44:4,7,8,15,20, 24 62:17,22 63:2,12 64:15 66:5,17,22 68:2,9,16,22 70:8,12, 17,19 71:2,9,21,25 72:13,19,24 73:5,10, 14,19 74:15,18,24 75:13,18 76:7,11,16 77:5,11,17,19,24 78:4,9,16,18,24 79:5, 12,17 80:7,12,18 82:25 83:10,14,23 84:2 85:7,12 87:24 92:19 93:9 94:17,21 95:3,7,12 98:4 99:20, 24 100:5,23 103:21, 25 107:14,18,23 108:6,18,24 109:5 110:4,14,18,21 111:22 112:7,21 113:3 114:17,22 115:11,19,25 116:5 117:10,14,20 118:7 119:17 120:21 121:4, 9,14,21 122:3,8,16, 24 123:21 124:5,11, 25 125:22 126:5,16 127:3,10,13,18,23 128:5 129:13,17 130:13 131:5,13,18,
objecting 13:22,23	officer 6:14 45:5 47:3,11 81:13,14,23, 24 83:3,9,16,24 84:5, 12,18 85:9 88:24 89:4 90:18	owner 47:23 104:11, 13,16 105:10 129:21, 23 130:9	Patchulski 10:7	
objection 8:11 13:25 15:8 25:22 70:5 84:13 112:15 120:2 164:4,6	officers 81:4,8 85:2, 15 86:6 87:7 88:14 90:2 101:15	ownership 33:4 41:17 47:7,13	patience 107:5	
objections 6:8 245:9,15 252:19 253:23 254:6	Okada 39:11 90:20, 25 91:5,10,14,19 92:2	owns 67:10	patrick 118:20	
objects 7:23 8:14 13:25	opened 36:17	<hr/> P <hr/>	pay 29:16 31:9,22 32:8,12,15 82:9,10, 17 112:12 125:8,13 138:4,9	
obligations 84:10 100:12	operated 33:23,25 44:19	p.m. 118:17 155:3 258:6	Payable 118:5	
obligors 231:14 233:4	operates 44:19	package 212:21	payment 161:10 207:3	
obtain 34:9 69:17 95:14 100:7 115:25 126:5 127:25 141:19 168:15	operating 44:23	paid 50:10 51:18 66:6,13 71:5 73:11, 21 93:21 94:8,13,23 136:16,20,24 137:4 195:6 207:7 208:2 241:7	payments 207:9,12 208:5,15 226:10,13	
	operations 33:15 62:11	paper 147:24	pending 7:21	
	opinion 205:4	paragraph 157:21 160:22,24 161:7 162:8,17 163:12 165:2,9,23 166:4,15 169:13 172:16 173:23 178:10 198:19 211:2,9	Penn 34:12,13 36:10	
	opportunity 15:2 244:22 253:13		people 22:20 37:12, 18 58:11 87:2 215:15 219:10	
			percent 33:9 223:14 224:4,5	
			Perfect 160:9	

<p>24 132:6,12,21 133:2,11 135:12,18 136:6,15 137:12,18, 23 139:11,15,19,25 140:5,9 141:8,14,19, 24 142:23 143:6,12, 19 150:19 151:3,6,22 152:25 153:5,9,14 170:25 173:5 178:25 179:24 180:20 181:2 218:17 219:22</p> <p>phone 18:11 40:15 87:17,19 155:21 191:13 192:11</p> <p>phrase 16:8 40:23 41:4 165:9</p> <p>pick 223:13</p> <p>piece 37:16</p> <p>pile 243:23</p> <p>place 18:21,22 87:12, 15,24 192:15 193:23 207:20 219:19 248:20,22</p> <p>plaintiff 11:20,21 161:10,17,18 163:2,3 164:18,19 165:9 205:10 251:2,8</p> <p>Plaintiff's 161:8 252:19</p> <p>play 51:23 52:2,8,15 207:5</p> <p>played 52:23</p> <p>point 58:10 82:18</p> <p>pointing 163:22</p> <p>portfolio 63:15,19,23 64:9,13,14 65:5,23 66:8,14,20 67:4 72:8, 12 76:21 161:19 163:4 164:20 174:6, 22 194:9 195:3,20 196:7,11,15 197:8,16 198:21 199:17,23 200:4,12,23 201:6, 14,25 202:8 203:8, 15,20,25 204:9,15 205:11,16,25 206:8 209:4,10,17 210:3,10 218:4 227:13 229:10 235:13</p>	<p>portion 13:2 94:2 161:3 162:8</p> <p>position 215:16</p> <p>positive 43:16 236:24</p> <p>possession 146:24</p> <p>possibility 229:21</p> <p>postgraduate 34:23</p> <p>practice 7:7 86:9,11, 14,17,23 87:4 88:13, 17,18,21 89:12,17,21 101:3,9,12,13,21 102:20,25 103:6 162:3</p> <p>preceded 167:4,8</p> <p>precise 245:17 254:8</p> <p>predict 228:14,19</p> <p>predominately 36:24</p> <p>preemployment 36:24 37:5,10</p> <p>prefer 153:21</p> <p>premarked 148:8</p> <p>prep 37:2,21,22,25</p> <p>preparation 17:13 18:6,14 19:5,21 20:2 245:5</p> <p>prepare 17:2,5 38:9 49:13,22 50:18,23</p> <p>prepared 25:3,10 49:8,16 51:3 236:9</p> <p>present 17:21 19:24 191:3</p> <p>preserve 46:17</p> <p>prevent 11:2 229:17</p> <p>previously 140:10, 16</p> <p>price 66:6,12 174:20 195:6 201:20,25 202:9 206:9 227:2 228:6</p> <p>principal 93:21 94:23 135:25 136:5, 14,20,24 137:5</p>	<p>138:5,14 139:4 141:10 204:19 206:10 225:21 226:7, 9 228:16</p> <p>prior 28:4 37:14 44:20,23 62:17,21,25 63:11 64:15 66:5,17, 22 67:25 68:9,16,22 70:8,12,17,19 71:2,9, 21,25 72:13,19,24 73:5,10,14,19 74:14, 18,23 75:13,18 76:7, 11,15 77:4,10,17,19, 24 78:4,9,15,18,24 79:4,12,17 80:6,12, 17 82:25 83:10,14,22 84:2 85:7,12 92:19 93:8 94:17,21 95:3,7, 12 98:4 99:20,24 100:5,23 103:21,25 107:13,18,23 108:5, 18,24 109:5 110:3, 13,17,21 111:21 112:6,21 113:3 114:16,22 115:11,14, 18,24 116:5 117:10, 13,14,20 118:6 119:16,22 120:20 121:3,9,14,20 122:3, 8,16,23 123:20 124:4,11,25 125:22 126:5,15 127:3,9,13, 18,23 128:5 129:13, 17 130:13 131:4,12, 18,24 132:5,12,21 133:2,11 135:12,17 136:6 137:12,17,23 139:11,15,19,24 140:5,8 141:5,7,14, 19,24 142:23 143:6, 11,19 149:18 150:19 151:2,6,21 152:25 153:4,9,14 161:9 167:11 168:7 170:25 173:19 178:25 179:23 180:19,25 192:22 193:8 196:24 212:12 215:20 216:2, 9 218:17 245:24 246:10,23 255:2,17</p> <p>private 38:3</p> <p>problems 11:5</p> <p>procedure 171:13</p>	<p>Procedures 7:19</p> <p>proceed 155:12</p> <p>proceeding 134:10, 18 245:25 246:12,24 250:9 255:4,18</p> <p>proceedings 238:7</p> <p>proceeds 114:18,23 115:4 126:17,22 127:4 140:2,6</p> <p>process 11:25</p> <p>Production 252:21</p> <p>professional 35:8</p> <p>professionally 36:9</p> <p>profit 62:7 214:2</p> <p>promise 82:9,10,17</p> <p>promissory 20:7,11 81:9,15,25 82:8,17 83:2,8,15,22 84:4,11 91:2,6 95:4,9,14,17 99:7,17,21 100:2,7, 13 106:21 107:2,11 109:18,24 110:25 111:13,24 112:13,23 114:9 115:8,12,19 116:2,7,16 117:4 121:5,6,11,17 123:4, 6,12,17 124:13,21 125:3 126:2,8,18,24 127:6,14,20,25 128:7 129:24 131:15,21 132:3 133:12,21 134:2,14 135:4,13, 20,25 136:5 138:6 140:19 141:5,8,15, 20,25 142:13 162:18 163:11 175:5,10,15 176:11,17 177:3,24 178:13,22 179:3,9,25 180:9 181:3,9,17,24 184:6,11,21 186:14 187:4 204:19 208:14 224:6 231:20 232:2 235:22 242:14</p> <p>properties 37:19</p> <p>Property 148:13</p> <p>proposal 194:14,17 197:18,19,20 198:8, 11,14 199:5,7,10 223:18</p>	<p>propose 194:16</p> <p>proposed 192:14 196:14</p> <p>prospective 47:25</p> <p>protects 30:3</p> <p>provide 37:25 47:19 48:4 161:22 168:22 252:6</p> <p>provided 19:6,20 47:16 81:3 97:24 107:15,19,24 119:25 122:18 216:20</p> <p>provision 148:25 194:20 195:15 197:14,24 199:2 201:9,22 229:13</p> <p>public 8:21 21:24 38:4</p> <p>purchase 174:20</p> <p>purpose 125:24 126:6,12 139:11,16, 20 161:22 168:16,21 211:9 238:24</p> <p>purposes 157:13 233:6 237:6</p> <p>purse 9:25</p> <p>pursuant 32:14 163:2 164:18 172:24 235:8 243:5,16</p> <p>push 199:9</p> <p>put 12:21 13:2 119:13 144:12,21 157:6,19 184:2 194:25 210:25 217:5 229:8 238:22 243:21 252:2,13</p> <p>puts 194:8</p> <p>putting 201:12</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualification 131:10</p> <p>question 6:9 12:6,12 15:4,7,11,12 28:20, 25 30:9,18 43:13 46:17,18,19 49:20 54:14 70:2,5 75:24</p>
--	---	---	--	--

76:4 81:19 83:13 94:5 97:12,15,17 98:25 100:20 104:18, 24 105:8 108:13,15, 17 109:24 110:7 111:20 112:18 122:14 124:2 132:18 134:5 138:23 141:2 150:14,15 158:7 164:10 166:10 167:22 169:24 175:12 177:17,19 178:4,5 180:17 183:7 186:5 187:23 188:8, 15,17,19 190:8,10 197:11 203:2 209:22 212:24 214:10 216:7 222:7 230:20 231:23 235:5,6 242:25	ready 155:11 real 35:7 120:6,9 237:12 240:17 reap 222:9 223:7 reask 30:8 reason 105:14 125:12 130:8,11 138:3,8,10,12 139:2, 6 152:9 178:11 191:7 193:5 228:21 229:2 245:15 254:6,9 reasonable 161:25 211:14,21 212:2,8,16 213:8 215:8,12,22 216:4,12 reasons 164:7 recall 11:15 20:9,10, 15,16 24:4,6 36:7 43:17 45:17,20,23,25 46:2 53:21 56:22 61:11 63:6 64:7 66:2, 4 68:25 69:20,21 70:6,9 73:4 74:12 76:9,14,19 77:9,14 78:8 80:15 85:24 87:4,11,14,21,23 88:11 89:19 90:15,19 93:19 95:2 99:19,23 100:4 102:2 103:4 105:24 106:4,18 112:5 115:16,17,23 120:18 121:18 123:19 124:23 127:17,22 128:23 131:3 136:11,23 137:21 138:2 141:12, 13,22 142:6 143:10 146:14,18 147:4 149:4,11,15 150:21 151:13 152:17 167:14 168:18 170:11 171:18,24 173:8,13,25 179:7 180:6 182:11 183:25 189:5 191:13,19 193:21 195:16,18 198:19 215:10 217:13 219:15,18,21, 25 220:8 237:14,18 240:10 242:6 248:11, 15,16,21	recap 219:11 receive 204:17 224:19 226:16 228:15 received 51:9,13 55:10 59:20 60:7 76:25 206:2 207:2 212:22 213:14 227:19 236:3 receiving 61:4 recess 58:21 118:19 154:9 210:22 257:11 recollection 28:9 40:14 52:22 53:15 83:6,7,18 117:22 172:3,21 179:8 190:17 191:22 193:12 248:7,13 249:14 record 7:9 9:3 13:20 14:20 43:22 57:24 58:2,18,20,23 67:17 118:15,18,23 154:8 155:5 210:21,24 239:21 257:10,13,22 recording 7:15 recover 222:3 recovered 223:20 recovery 35:9,12,19 36:3 227:12 reduced 217:4 refer 13:13 16:15 39:20 45:11 103:14 129:8 163:9 164:24 230:3 250:13 reference 149:19 152:19 referral 27:20 referred 23:9,10,12, 15 27:11,22 66:24 95:25 111:25 114:10 124:14,22 157:5 165:23 166:4,15 169:13 170:22 173:23 referring 15:22 16:2, 17 19:13 41:21 101:13 178:19 214:5	218:25 refers 165:10 reflected 103:6 110:25 111:12 116:15 123:4,17 124:13,21 125:3,25 126:8 127:6 135:20 reflects 246:2,12 255:4 refresh 238:9 refreshed 242:17 regard 125:24 222:14 regular 151:21 reject 199:6 rejected 198:8,11 relate 48:11 related 80:4 89:11,16 102:25 178:12 relates 63:19,24 64:10 96:5,8 relation 63:15 relationship 45:15 224:7 relative 226:17 relied 216:17 relinquished 173:10 remember 19:10 22:12 23:13 35:11,15 57:5 60:2,3 63:3 70:18 72:18 73:9,18 74:21,22 78:13 80:22 83:17 84:8 87:8 88:7 89:14 102:13 104:6 114:15 116:22 140:23 146:21 156:9 159:24 172:5 181:20, 23,24 182:4,5,6 189:13 193:2 212:18 215:14,17 217:17 218:21 219:7 220:11, 13,15,17,21,24 242:12,13 remembered 236:20 remote 7:16	remotely 7:10,13 12:4 rendered 32:9 48:25 108:7,19,25 109:6 121:22 122:4,9 132:7,13,22 133:4 234:2,23 235:16 renting 37:18 reorganized 10:8 repaid 138:14 139:3, 8 repay 112:22 113:4, 11 125:2,19 repeat 49:19 70:23 76:4 81:18 100:20 122:13 132:17 166:10 186:4 209:21 227:24 229:7 rephrase 53:2 138:23 150:13,14 reporter 7:11 8:7 14:16,20 97:14 105:5 108:14 177:8,11,16 188:16 Reporting 7:5 represent 10:8 21:18 22:11 23:5 26:7,16 27:17 representation 24:18 representative 16:23 161:16 165:13 250:24 251:7 representing 26:21 28:13 represents 22:16 26:9,20 32:4 request 58:6 168:11 245:21 246:6,18 252:20 254:15,18 255:7,9 Requests 252:21 requiring 198:2 research 33:2,12,15, 18,23 34:2,7 36:12, 23,25 41:2 43:11,19 47:15,18,23 48:3
--	--	--	---	--

Reserve 257:19	room 7:9,12 9:11,14, 17	248:16	sharing 214:2	225:3 226:15 227:3, 12 228:22 229:4
reserved 6:10	roughly 51:20	seek 10:17 152:14 249:10	sheet 62:21	sole 169:2
respect 72:5 101:15 169:7 197:23	Royal 36:14	seep 160:24	sheets 62:6 206:25	solely 76:25
respective 6:4	Rukavina 13:15,16 14:6	Seery 38:17,20 199:17	shift 80:23	sort 238:15
responded 246:16	Rule 7:18	select 23:4	Shortly 146:16 151:15	source 66:2 72:15 86:13,16,20,21 98:23 101:18 105:15 128:24
response 8:3 168:10 220:8 250:6 254:19, 24 255:9,15 256:13	rules 7:19,20 11:23	selected 22:21 183:22 195:25 196:4	sides 229:24	speak 7:24 8:15 14:7 18:10 40:9 155:23 156:3 217:6 223:24
responses 14:15 243:22 245:9,16 252:16,19 253:23 254:7,13,15	run 47:23	sell 200:3 201:15,24 202:17,19 203:25 204:8 221:3 227:7 228:6 229:11	signature 147:17,22 184:15 244:17 253:8	speakerphone 17:24
responsible 29:22	rush 158:4	Russell 39:2	signed 6:13,16 83:3, 9,15,23 95:5,10,15, 18 99:22 100:2,13 149:6 184:18 244:20, 23 253:11,14,18	speaking 20:10 87:4 94:3 110:8 189:4
restate 102:7 159:6 167:21 242:24	S	selling 229:18	signing 149:18 245:2	specialist 35:9,13
restated 16:11	salary 51:20,24 52:4, 5,9,16,18,24 53:7,8, 12 54:5 55:2,8 59:21 60:7,13 61:10,14,15 207:2 213:22 214:6	sells 200:12 202:24 222:10,15 226:25	silent 10:4	specific 20:21 90:11 92:15 93:4 116:11 242:13
restaurant 34:19	sale 198:3 203:15 228:15	sense 207:16	similar 72:5 95:21	specifically 68:20 91:3 147:8 161:12 250:20
resumed 155:7	satisfy 29:16	series 173:22	simply 158:7 229:4	specifics 175:19 182:5 220:12 238:15
retain 23:16,18 27:7 28:8	scenario 205:18	serve 22:22 45:5 168:19 239:25	single 88:24	speculate 149:8
retained 24:2 61:17, 20	scheduled 28:5	served 47:2,10 157:10 158:23	sir 22:8,19 32:19 42:21 45:13 46:5 47:4,9,14 48:10 49:7, 11,19 50:14,21 67:2 75:11 92:3 119:4,7, 18 123:9 146:10 149:22 152:13 155:19 156:2,6 161:2 168:12 172:11 226:14	speculating 237:11
return 81:15 99:7 206:2 231:20 232:2	Schroth 151:12,13, 17,21,24 152:7,16 219:2 220:9	servers 238:24	sit 69:22 83:7 193:6 207:6 242:11 245:8, 14 246:9,21 253:20 254:4	spend 26:5
review 19:4,20 62:16 145:21 147:15,20 158:11,15 184:24 211:4 244:5,13,19 245:11 247:17 248:19,21 253:10,25 256:9	Schutt 36:14	serves 236:6	situation 228:3 229:25	spoke 24:5 86:25 213:20
reviewed 17:7 62:18, 21 149:16 245:4 247:21 248:2 249:18	scope 25:19,21 171:14 192:13	services 33:2 36:18, 23 37:24 47:16,19 48:4,8,25 103:11 107:15,19,24 108:7, 19,25 109:7 121:22 122:4,10,18 132:7, 14,23 133:4 233:19, 25 234:23 235:16	situations 46:16	spoken 61:20 87:9
reviewing 248:8,16 249:15	screen 12:21,25 144:13,22 147:19 157:6,20 160:25 184:3	set 61:13,15 175:22 230:4	slow 76:2	standard 162:3
revisit 187:24	screening 36:25 37:13,17	setting 51:24 52:3,9, 11,13	social 7:7	Stang 10:7
rightfully 194:24	scroll 157:25 158:12 184:13	settled 43:16	sold 161:19 163:5 164:21 174:23 195:5 196:16 197:9,17 198:22 200:24 201:6, 21 202:9,11 203:3,9, 19 204:14 205:11,24 206:9,12,18 221:12 222:5 223:7,12 224:4	start 55:14 94:4 145:3 159:16 225:15
role 51:23 52:3,8,15, 23	sealing 6:5	severity 7:6		started 189:13 193:25
roll 140:16	search 149:8	share 51:12,16 88:20		starting 133:18 134:11
rollup 140:10	section 113:21 148:4,22 149:5,12, 17,20 150:24 152:19 156:8,14,21 243:5,16	shareholder 169:22		state 8:8,13 9:2 34:12,14 36:10
		shareholders 149:25 161:17 165:14 250:25 251:8		State's 7:20
				stated 194:5 199:3

201:10	sued 185:8	term 29:9 62:2,5,13 63:14,19,23 64:9,13 96:4,8 97:22 116:25 129:14 142:14,24 143:7,25 144:4 149:24 150:23 192:13 197:6 205:23	14:11,24 17:11 20:6, 17 21:13,18 22:10 26:5 28:6,14 36:9,11 45:3,6 51:9,14 52:19 58:19,22 61:3,9,12 67:25 68:9 70:7,12, 16 71:2,21 72:19,24 75:13 77:4 81:3 85:12 88:23 92:9,10, 16 93:13,18 97:23,24 101:22 110:9 111:11 112:6,13 113:5,12 114:22 115:18,24 118:16,21,22 119:14 121:9 125:4,10,15,19 130:21,25 131:18 132:12,21 133:7 138:6,15 139:5,8 141:24 142:23 143:6, 19 146:15,20 147:6 149:12,13 150:9,19 153:19 154:7 155:3,4 158:5 160:4 163:18 165:22 166:25 168:4 169:11,17 170:20,25 171:3 173:9 174:13 180:7 186:7,22 193:3,14 194:7,25 196:20 201:12 204:2, 9 206:24 208:24 209:6,13,23 210:7, 20,23 211:17 212:19 213:3,11 214:12,18, 24 215:20 217:19 221:16 222:7 224:23 225:19 226:7 227:8, 18,25 229:9,21 230:24 231:23 236:17 237:23 239:15 240:11,14 241:5,23 242:3,5 244:11 245:18 246:3 248:25 249:19 254:9 256:8,21,23 257:4,7, 9,12,16 258:3,6	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8
statement 162:17	sufficient 246:5,17	test 12:23 25:4 43:23 238:23	130:21,25 131:18 132:12,21 133:7 138:6,15 139:5,8 141:24 142:23 143:6, 19 146:15,20 147:6 149:12,13 150:9,19 153:19 154:7 155:3,4 158:5 160:4 163:18 165:22 166:25 168:4 169:11,17 170:20,25 171:3 173:9 174:13 180:7 186:7,22 193:3,14 194:7,25 196:20 201:12 204:2, 9 206:24 208:24 209:6,13,23 210:7, 20,23 211:17 212:19 213:3,11 214:12,18, 24 215:20 217:19 221:16 222:7 224:23 225:19 226:7 227:8, 18,25 229:9,21 230:24 231:23 236:17 237:23 239:15 240:11,14 241:5,23 242:3,5 244:11 245:18 246:3 248:25 249:19 254:9 256:8,21,23 257:4,7, 9,12,16 258:3,6	
statements 38:7,8 62:2,5,6,8,10,14,17, 25 63:5,8	suggest 125:18 196:6	testified 8:22 59:19 101:10 117:9 155:8 169:20 197:21 225:9	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
step 236:13	suggesting 143:25	terms 51:15,17 116:6,12,15,19,23 117:19 128:6,11,14, 21,25 141:25 174:2,5 192:14 217:3,7,11,15 218:12 222:24 223:25 246:13 255:5	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
steps 102:19,21 128:19	suggestion 189:8, 10	testimony 10:22 11:16 23:14 119:3 155:25 162:16,22 164:13 208:4	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
Stinson 26:9,15,23	sum 82:11	testifying 187:20	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
stipulate 7:14 25:12	summarize 245:23	things 15:19 25:5 37:5 238:8	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
STIPULATED 6:2,7, 11	summer 27:8	thinks 156:22	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
stock 41:25	surprise 220:22	threshold 198:3	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
stop 157:22	surrendered 173:16,20	throwing 215:15	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
Strand 38:24 45:9, 12,14,18,21 46:3,7, 11 47:3 251:16	swear 7:13 8:17	Thursday 18:19	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
strike 195:12	swearing 7:16	tie 223:19	252:10 today's 17:2,5,13 18:6,14 19:5,22 225:14,15 245:6 258:4 told 45:24 87:5 102:19 128:21 151:8, 10,14 152:7,16 183:17 211:23 212:3 216:15 220:23 top 35:10 65:3 89:2,8 145:25 159:15 160:5 161:4 184:23 247:15 topic 24:23 25:9 49:23,24 99:16 144:7 239:3 topics 144:6 238:5 total 53:17,18,23,24 54:8,16,20 55:8,16, 19 56:3,7,11,15,20, 24 57:3,7,11 180:14, 16 182:8 212:21 213:24 214:3 226:3 totaled 175:21 Totally 95:20 touched 229:6 transaction 238:16 transactions 189:19 190:3 transcribe 14:21 Transfer 148:14 transferred 36:22 Traurig 27:2 32:3,9 Traurig's 32:13 trial 6:10 37:2,21,22, 25 38:9 257:20 trigger 152:20 153:2, 5,10,15 207:4 triggering 198:4 true 162:9 234:25 Trussway 65:10 75:4,21 76:18,21 77:7,12,16,22 78:2,7, 12,15,21 79:2,6,14, 19 174:8	
subject 11:15 20:8, 12 25:17 91:2 111:2, 7,13,24 112:13,23 114:9 123:7,12,18 134:3,25 135:15 137:6 140:21 143:13, 20,22 162:20 164:25 174:25 175:5,15 176:12,18 177:4,25 178:13,23 179:3,10, 25 180:9,10 181:3,9, 18,25 182:10,20 183:3,9,15,23 185:3 187:15 188:23 193:16 195:17,21 199:18,24 200:10,21 201:4,6 220:3 225:12,22 228:7 233:18,24 241:11 242:15	switch 76:2 144:6 157:3			

Trussway's 75:7,10,15 trust 15:23 29:24 30:2,5,11,15 31:3,4 164:15 166:20,21,25 167:9,15,18,25 168:10,15,16,20,21 169:3,8,10 172:23 236:17 237:3,4 248:4 249:15,18 253:22 254:5 256:15 Trust's 252:18 trusted 27:19 228:11 trustee 16:21 22:13 30:5,14 50:17 51:3 146:17 151:15 164:5, 14 165:18,21 166:24 167:4,8,11,15,18,25 168:4,5,10,14,20 172:22 182:15 201:3 206:5 236:16,22 239:6 241:13 243:14 251:12,15 252:12 253:21 254:5 256:5, 15 TSG 7:5 turn 144:9 145:2,16 157:20 244:15 245:19 253:6 254:14 turned 10:2 turning 246:15 Turnover 148:13 twin 182:15 two-and-a-half 60:14,22 type 71:16 typically 35:24 <hr/> U <hr/> um-hmm 10:3 55:6 117:15 129:15 142:5 162:6 165:5 172:14 173:12 188:4,5 211:11 226:23 234:17 235:14 253:2 umbrella 64:3 96:22 104:7 119:22 185:25	underage 191:5 undercompensated 194:6 underpaid 161:24 211:14,20,25 212:8, 15 213:7 216:4,11,18 understand 8:9 10:11,13,16,20 12:17 14:19 15:22 16:2,17, 19 22:2,5 28:24 29:14 31:12,16 37:24 40:22 41:4,12,18 43:2 44:22 53:3 54:9, 13,25 55:6,7 63:25 75:14,19 76:12,17 82:16 95:24 103:19, 24 117:21 119:8 134:24 145:6 146:7 156:14 165:8,12 174:13 175:7 190:12 193:17 199:16 200:16 204:7 239:20 understanding 29:6,8,21 30:25 42:22 43:6,25 44:3,4, 18 50:11 54:24 55:13 61:25 62:4 63:18,23 64:5,8,12,18 65:13, 16,18,19 67:3 68:3, 13 72:21 76:20,24 77:6,10 82:8,24 96:4, 7,23 97:18,22 117:19,24 119:12,15, 20 129:11,17,22 149:23 150:4 152:22, 24 185:21 186:9,13, 25 187:8 204:13 207:11,15 209:2,8 226:25 227:5,11 232:3 understandings 28:22 understood 232:23 233:14 undertaken 39:4 unfair 238:22 <hr/> V <hr/> vague 117:12 219:5, 8	vaguely 215:14 validity 7:15 vehicle 41:16 verbal 14:16 15:16 189:12 verbally 189:13 verify 46:7 Vero 191:2 video 7:15 71:15 videotape 10:17 view 221:23 <hr/> W <hr/> W-2 46:22,24 wait 68:6 177:6 waived 6:6 8:11 wanted 155:22 194:8 223:19 Wednesday 18:19 week 13:7 whatsoever 238:24 win-win 194:15 228:3 withdraw 183:6 246:3 withdrawn 16:9 20:24 24:5 28:19 65:12 69:11 74:8 79:10 82:14 83:12 86:2,15 94:19 96:16 101:11 103:18 106:6 108:3,4 111:9 117:17 119:13 120:24 121:19 122:22 127:8, 10,12 128:18 133:10 135:10 136:2,3 138:11 139:23 152:23 156:12 168:8 178:24 179:21 181:14 183:13 185:15 192:2 204:5 208:3 222:10 223:3 227:7,16 233:22 237:21 249:4 251:13 252:3,6	witnesses 38:7 word 14:21 15:21,25 21:22 29:2 55:11 words 13:24 236:13 work 34:6 38:3 194:2,7,25 201:12 229:13 worked 27:21 36:14 38:4,5 46:21 155:21 working 22:20 36:11 workload 33:20 works 208:12 world 218:17 worry 148:7 wound 187:6 write 218:12 writing 89:11 179:9, 20 180:25 217:4,5,8 written 29:24 50:19 179:23 180:4 217:11, 16 wrong 30:25 109:19 177:10 245:10 253:23 <hr/> Y <hr/> year 20:4 28:11 53:5, 17,20 90:17 161:13, 15 162:24 163:2 164:16,18 170:8 172:5,16,18 182:7 194:4 212:23 213:15 214:16,22 215:5 years 11:14 36:4,19 45:19 47:20 51:19 67:15 92:18 144:3 170:9 181:23 182:6 193:24 yesterday 17:10,16 <hr/> Z <hr/> Ziehl 10:7 Zoom 18:12,13,18,22 19:2
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EXHIBIT 101

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

Case No. 2021-1193

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In Re: Chapter 11
HIGHLAND CAPITAL MANAGEMENT, L.P. Case No.
Debtor, 19-34054-sgj11

-----X
HIGHLAND CAPITAL MANAGEMENT, L.P.,
Plaintiff, Adversary

-vs- Proceeding No.
NEXPOINT ADVISORS, L.P., JAMES 21-03005-sgj11
DONDERO, NANCY DONDERO, and the
DUGABOY INVESTMENT TRUST,
Defendants.

-----X
REMOTE VIDEOTAPED DEPOSITION OF ALAN JOHNSON

Tuesday, November 2, 2021

Reported by:
Amy A. Rivera, CSR, RPR, CLR
JOB NO. 202068

<p>Page 2</p> <p>1</p> <p>2 November 2, 2021</p> <p>3 9:02 a.m.</p> <p>4</p> <p>5 REMOTE videotaped deposition of ALAN</p> <p>6 JOHNSON held pursuant to Notice, before Amy A.</p> <p>7 Rivera, Certified Shorthand Reporter, Registered</p> <p>8 Professional Reporter, Certified LiveNote Reporter,</p> <p>9 and a Notary Public of the States of New York, New</p> <p>10 Jersey and Delaware.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1</p> <p>2 R E M O T E A P P E A R A N C E S:</p> <p>3 PACHULSKI STANG ZIEHL & JONES</p> <p>4 Attorneys for Highland Capital Management, L.P.</p> <p>5 780 Third Avenue</p> <p>6 New York, NY 10017</p> <p>7 BY: JOHN MORRIS, ESQ.</p> <p>8 HAYLEY WINOGRAD, ESQ.</p> <p>9</p> <p>10 STINSON</p> <p>11 Attorneys for James Dondero, HCRE, HCMS</p> <p>12 3102 Oak Lawn Avenue</p> <p>13 Dallas, TX 75219</p> <p>14 BY: MICHAEL AIGEN, ESQ.</p> <p>15 DEBORAH DEITSCH-PEREZ, ESQ.</p> <p>16</p> <p>17 GREENBERG TRAURIG</p> <p>18 Attorneys for Nancy Dondero</p> <p>19 2200 Ross Avenue</p> <p>20 Dallas, TX 75201</p> <p>21 BY: DANIEL ELMS, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 4</p> <p>1</p> <p>2 ALSO PRESENT:</p> <p>3 Michael Landis</p> <p>4 Deborah Newman</p> <p>5 Michael Perniciaro</p> <p>6 La Asia Canty</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 ALAN JOHNSON</p> <p>2 COURT REPORTER: Good morning,</p> <p>3 Counsel.</p> <p>4 My name is Amy Rivera. I am a</p> <p>5 certified court reporter in association with</p> <p>6 TSG Reporting, Inc.</p> <p>7 Due to the severity of the COVID-19</p> <p>8 and following the practice of social</p> <p>9 distancing, I will not be in the same room</p> <p>10 with the witness but will record this</p> <p>11 deposition remotely and will swear the</p> <p>12 witness remotely.</p> <p>13 Do all parties stipulate to the</p> <p>14 validity of the remote recording and remote</p> <p>15 swearing and that it will be admissible in</p> <p>16 the courtroom as if it had been taken</p> <p>17 following Rule 30 and other rules of the</p> <p>18 Federal Rules of Civil Procedures and the</p> <p>19 state's rules where this case is pending?</p> <p>20 MR. MORRIS: John Morris, Pachulski</p> <p>21 Stang Ziehl & Jones, for Highland Capital</p> <p>22 Management, L.P.</p> <p>23 We stipulate.</p> <p>24 MR. AIGEN: Michael Aigen from</p> <p>25 Stinson.</p>

<p style="text-align: right;">Page 6</p> <p>1 ALAN JOHNSON</p> <p>2 And I'm here with Deborah</p> <p>3 Deitsch-Perez.</p> <p>4 And we also stipulate.</p> <p>5 MR. ELMS: Daniel Elms, Greenberg</p> <p>6 Traurig, on behalf of Nancy Dondero.</p> <p>7 We stipulate.</p> <p>8 ALAN JOHNSON, having been duly sworn</p> <p>9 by the Notary Public, testified as follows:</p> <p>10 MR. MORRIS: Thank you.</p> <p>11 EXAMINATION</p> <p>12 Q. Good morning, Mr. Johnson.</p> <p>13 Can you hear me?</p> <p>14 A. Yes, you're very clear.</p> <p>15 Q. Okay.</p> <p>16 My name is John Morris. I'm an</p> <p>17 attorney at Pachulski Stang Ziehl & Jones, and we</p> <p>18 represent Highland Capital Management.</p> <p>19 We're here today for your deposition.</p> <p>20 Do you understand that?</p> <p>21 A. Yes.</p> <p>22 Q. And do I understand correctly that</p> <p>23 you've been engaged to provide expert testimony in</p> <p>24 this matter?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 7</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Do you have a general understanding of</p> <p>3 the nature of the litigation in which your expert</p> <p>4 testimony is being offered?</p> <p>5 A. At a high level, I do, yes.</p> <p>6 Q. Can you tell me what your general</p> <p>7 understanding at a high level is in the pending</p> <p>8 litigation?</p> <p>9 A. The litigation involves loans for</p> <p>10 Mr. Dondero that were taken out during – over a</p> <p>11 period of years.</p> <p>12 Late in 2018 and '19, the loans were</p> <p>13 consolidated and modified to put in place</p> <p>14 acceleration features, if – if the specific</p> <p>15 transactions occurred, so that at least – there's</p> <p>16 a lot of litigation, but as I understand what I'm</p> <p>17 involved is these loans that accumulated over a</p> <p>18 period of years, the practices of loans, and I'm</p> <p>19 also opining on his market compensation over the</p> <p>20 period 2013 through 2019.</p> <p>21 Q. Do you know who the obligors are under</p> <p>22 the loans you've just mentioned?</p> <p>23 A. Obligor? Could you explain – give</p> <p>24 me more detail what you're looking for?</p> <p>25 Q. Sure.</p>
<p style="text-align: right;">Page 8</p> <p>1 ALAN JOHNSON</p> <p>2 Do you know who own – who the loan</p> <p>3 was made to – withdrawn.</p> <p>4 Do you know who the loan – I think</p> <p>5 you used the word, plural, "loans," so let me ask,</p> <p>6 using your word, if I have that correctly, do you</p> <p>7 know who Highland made the loans to that are the</p> <p>8 subject of the litigation?</p> <p>9 A. I'm not clear, no.</p> <p>10 Q. Okay.</p> <p>11 You don't have an understanding as you</p> <p>12 sit here today as to who the loans Highland made</p> <p>13 to that are the subject of the litigation.</p> <p>14 Do I have that right?</p> <p>15 A. If I understand it, the loans</p> <p>16 criss-crossed differently to different entities,</p> <p>17 so I'm not exactly sure how all that was</p> <p>18 structured.</p> <p>19 Q. Okay.</p> <p>20 You've been deposed before, right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 And you've served as an expert before,</p> <p>24 right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 9</p> <p>1 ALAN JOHNSON</p> <p>2 Q. In fact, you've been retained by my</p> <p>3 firm to provide expert services in the area of</p> <p>4 executive compensation. Is that right?</p> <p>5 A. Yes. Yes, I have.</p> <p>6 MR. MORRIS: Mr. Kornfeld sends his</p> <p>7 best regards.</p> <p>8 THE WITNESS: Thank you.</p> <p>9 MR. MORRIS: You bet.</p> <p>10 Q. So I don't know if you've given remote</p> <p>11 depositions before, but just very, very</p> <p>12 preliminarily, since you are an experienced</p> <p>13 witness, we'll be looking at a number of documents</p> <p>14 today, and if I put something up on the screen and</p> <p>15 you believe that you need to see more of the</p> <p>16 document, will you let me know that?</p> <p>17 A. Sure.</p> <p>18 Q. Where are you sitting right now?</p> <p>19 A. My home in New Jersey.</p> <p>20 Q. Okay.</p> <p>21 Do you have any documents in front of</p> <p>22 you right now?</p> <p>23 A. No.</p> <p>24 Q. Do you have a telephone?</p> <p>25 A. Yes, I do.</p>

<p style="text-align: right;">Page 10</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Is it on right now?</p> <p>3 A. Yes. It is my cell phone.</p> <p>4 Q. Could I trouble you to just turn it</p> <p>5 off?</p> <p>6 You know what, if you're not</p> <p>7 comfortable for personal reasons, could I ask you</p> <p>8 not to look at your phone unless it rings and it's</p> <p>9 your child or spouse?</p> <p>10 A. Let me put it out of arm's reach and</p> <p>11 put it upside down, how's that?</p> <p>12 Q. That's fair. That's fair.</p> <p>13 I've taken a look at your report that</p> <p>14 you prepared back in May. Based on that report,</p> <p>15 do I have it correct that you've spent your entire</p> <p>16 career as an executive compensation consultant?</p> <p>17 A. Yes, that is correct.</p> <p>18 Q. And you've had your own executive</p> <p>19 compensation consulting firm since the early '90s.</p> <p>20 Is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And your firm specializes in</p> <p>23 compensation consulting for the financial services</p> <p>24 industry, correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 ALAN JOHNSON</p> <p>2 Q. You've advised major asset management</p> <p>3 and investment firms on issues concerning</p> <p>4 executive compensation. Is that right?</p> <p>5 A. Yes.</p> <p>6 Q. You've advised hedge funds and other</p> <p>7 alternative firms on issues concerning executive</p> <p>8 compensation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. According to your report, did I read</p> <p>11 this correctly that your firm's clients include</p> <p>12 many of the world's most significant financial</p> <p>13 institutions?</p> <p>14 A. Yes, they do – it does.</p> <p>15 Q. Have you personally ever been retained</p> <p>16 by a board of directors to provide advice</p> <p>17 concerning executive compensation?</p> <p>18 A. Many times.</p> <p>19 Q. Can you give me a rough number? Is it</p> <p>20 more than 20?</p> <p>21 A. Board of directors? More than 20.</p> <p>22 Q. More than 50?</p> <p>23 A. I don't know. It may – it's a lot.</p> <p>24 Q. Is it fair to say it's somewhere</p> <p>25 between 20 and 50 and it could even be more?</p>
<p style="text-align: right;">Page 12</p> <p>1 ALAN JOHNSON</p> <p>2 A. Probably more than 50.</p> <p>3 Q. Have you ever been retained by a</p> <p>4 compensation committee of a board of directors to</p> <p>5 provide advice?</p> <p>6 A. Yes.</p> <p>7 Q. And if I separate that from boards of</p> <p>8 directors generally, is that also a number that</p> <p>9 measures in the dozens?</p> <p>10 A. At least.</p> <p>11 Q. Other than boards of directors and</p> <p>12 compensation committees of boards of directors,</p> <p>13 can you identify generally any other decision</p> <p>14 makers that you've been retained by to give advice</p> <p>15 on areas of executive compensation?</p> <p>16 A. We – we get involved from time to</p> <p>17 time with business owners. That might be a</p> <p>18 private equity firm or hedge fund looking at their</p> <p>19 portfolio companies.</p> <p>20 We also do a lot of project work. So</p> <p>21 that would involve working with senior leaders of</p> <p>22 different financial services firms to look at</p> <p>23 either their whole compensation program or the</p> <p>24 programs for particular units.</p> <p>25 We also from time to time get involved</p>	<p style="text-align: right;">Page 13</p> <p>1 ALAN JOHNSON</p> <p>2 with some of the major consulting firms where</p> <p>3 they – we provide advice to them as they work</p> <p>4 with their clients on financial services</p> <p>5 compensation.</p> <p>6 Q. Okay.</p> <p>7 And what is it that you sell? Can you</p> <p>8 describe for me, if you were giving a sales pitch,</p> <p>9 why a board or a compensation committee should</p> <p>10 hire you?</p> <p>11 A. Well, we have a lot of experience in</p> <p>12 the space across financial services. So we have a</p> <p>13 large home-field advantage of knowledge,</p> <p>14 experiences. We know the nuances of what goes on</p> <p>15 in the industry. That's part of the sales pitch.</p> <p>16 We also are good consultants. We –</p> <p>17 we listen. We are experts at looking at</p> <p>18 information and data and all that.</p> <p>19 And at the end of the sales pitch, I</p> <p>20 usually say, We also have big scans, so we're used</p> <p>21 to dealing with difficult people.</p> <p>22 So many of the people in financial</p> <p>23 services are opinionated and, at times, difficult,</p> <p>24 so a lot of experience across cycles. We're</p> <p>25 comfortable giving clients difficult news, and</p>

<p style="text-align: right;">Page 14</p> <p>1 ALAN JOHNSON</p> <p>2 we're good at what we do.</p> <p>3 Q. And is it fair to say you have</p> <p>4 expertise in the area of executive compensation?</p> <p>5 A. Absolutely.</p> <p>6 Q. And is it fair to say that part of</p> <p>7 that expertise is knowing the marketplace?</p> <p>8 A. Absolutely.</p> <p>9 Q. And is part of that expertise knowing</p> <p>10 or being familiar with the current trends in the</p> <p>11 marketplace?</p> <p>12 A. Yes, absolutely.</p> <p>13 Q. And would you say that you have a</p> <p>14 really good understanding of how to structure</p> <p>15 compensation plans that are appropriate to the</p> <p>16 clients that you serve?</p> <p>17 A. Yes.</p> <p>18 Q. And one of the things that we're here</p> <p>19 to discuss today is the concept of forgivable</p> <p>20 loans.</p> <p>21 Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. And your client is James Dondero.</p> <p>24 Do I have that right?</p> <p>25 A. I was retained by Stinson, but they</p>	<p style="text-align: right;">Page 15</p> <p>1 ALAN JOHNSON</p> <p>2 represent him, yes.</p> <p>3 Q. Okay. We'll talk about that just a</p> <p>4 bit more.</p> <p>5 I'm going to read from your report.</p> <p>6 If you want me to put it up on the screen, I'm</p> <p>7 happy, but I want to focus just on one sentence of</p> <p>8 your report that says that you understand from</p> <p>9 Mr. Dondero that "The 2018 loans that are the</p> <p>10 subject of this suit were modified by agreement in</p> <p>11 late 2018 or early 2019 under which the loans</p> <p>12 would be forgiven upon the sale at over cost of</p> <p>13 substantially all of any three portfolio companies</p> <p>14 held in the Highland platform."</p> <p>15 Do you remember that?</p> <p>16 A. Yes.</p> <p>17 Q. Would you like to see it so you can</p> <p>18 see the context?</p> <p>19 A. I think I understand it.</p> <p>20 Q. Okay. So that's the sentence that I</p> <p>21 want to focus on.</p> <p>22 Is the agreement that you described</p> <p>23 the only agreement that you're aware of pertaining</p> <p>24 to Highland and Mr. Dondero and the forgiveness of</p> <p>25 loans or do you understand there's more than one</p>
<p style="text-align: right;">Page 16</p> <p>1 ALAN JOHNSON</p> <p>2 agreement?</p> <p>3 A. When I discussed it with Mr. Dondero,</p> <p>4 I believed there was a single agreement, but that</p> <p>5 I'm not sure of. I think that's the – what I got</p> <p>6 out of him.</p> <p>7 Q. Okay.</p> <p>8 You haven't been informed that more</p> <p>9 than one agreement exists.</p> <p>10 Do I have that right?</p> <p>11 A. I don't believe so.</p> <p>12 Q. Okay.</p> <p>13 Do you know how many loans are the</p> <p>14 subject of the agreement?</p> <p>15 A. There were – they were consolidated,</p> <p>16 I believe, in late '18 or '19. Originally, there</p> <p>17 were a lot more. I think they're down to a</p> <p>18 couple, if I recall.</p> <p>19 Q. Is it relevant to your analysis to</p> <p>20 know the number of loans that are the subject of</p> <p>21 the agreement?</p> <p>22 A. I don't think so.</p> <p>23 Q. Do you know the aggregate value of the</p> <p>24 loans that are the subject of the agreement that</p> <p>25 you referred to in your report?</p>	<p style="text-align: right;">Page 17</p> <p>1 ALAN JOHNSON</p> <p>2 A. I think the total of the loans is</p> <p>3 somewhere in the 40 to \$50 million range, if</p> <p>4 that – I think that's what I read.</p> <p>5 Q. And where did you read that?</p> <p>6 A. I think in all the documents, when I</p> <p>7 tried to parse out the – all the loans, I think</p> <p>8 it totaled to something like 40 to \$50 million, if</p> <p>9 I recall.</p> <p>10 Q. And can you describe the document that</p> <p>11 you're referring to?</p> <p>12 A. There were a bunch of loan agreements</p> <p>13 in all the different materials. I don't recall</p> <p>14 where I saw them.</p> <p>15 Q. Okay.</p> <p>16 Is the value of the – is the</p> <p>17 aggregate value of the loans relevant to your</p> <p>18 analysis?</p> <p>19 A. No.</p> <p>20 Q. Do you know anything about the loans</p> <p>21 that are the subject of the agreement other than</p> <p>22 what you've written in your report?</p> <p>23 A. Subsequent to the report, I've seen</p> <p>24 some of the documentation of the loans, so I've</p> <p>25 seen some amounts and the period of the loans, the</p>

<p style="text-align: right;">Page 18</p> <p>1 ALAN JOHNSON</p> <p>2 interest rates and so forth.</p> <p>3 Q. When did you see that documentation?</p> <p>4 A. In the last week or so, prior to this</p> <p>5 deposition.</p> <p>6 Q. Have you amended your report?</p> <p>7 A. I have not.</p> <p>8 Q. So are any of the conclusions altered</p> <p>9 at all by any of the documents you've seen</p> <p>10 recently?</p> <p>11 A. No.</p> <p>12 Q. And now that I am aware that you've</p> <p>13 seen certain loan documentation, I'll ask you</p> <p>14 again if you can identify any obligor under any of</p> <p>15 the loans other than Mr. Dondero?</p> <p>16 A. I'm sorry. I just didn't pay that</p> <p>17 much attention. I was looking – I don't</p> <p>18 remember.</p> <p>19 Q. Do you recall if the loans were demand</p> <p>20 loans or term loans?</p> <p>21 A. The ones I recall were – they were</p> <p>22 for a very long period of time, I think 30 years.</p> <p>23 They were – they were 30-year term loan.</p> <p>24 Q. And do you recall how many 30-year</p> <p>25 term loans you saw?</p>	<p style="text-align: right;">Page 19</p> <p>1 ALAN JOHNSON</p> <p>2 A. I recall at least a couple.</p> <p>3 Q. Did you see any demand loans?</p> <p>4 A. I don't recall seeing any.</p> <p>5 Q. Have you ever seen any written</p> <p>6 agreement covering the forgiveness of any loans</p> <p>7 that Highland extended to Mr. Dondero?</p> <p>8 A. I have not.</p> <p>9 Q. Have you ever seen any written</p> <p>10 agreement covering the forgiveness of any loans</p> <p>11 that Highland extended to any corporate affiliate?</p> <p>12 A. I have not.</p> <p>13 Q. Have you ever seen any written</p> <p>14 agreement covering the forgiveness of any loans</p> <p>15 that Highland had ever extended to any person or</p> <p>16 entity in the world?</p> <p>17 A. I have not.</p> <p>18 Q. Have you seen any documents that</p> <p>19 describe the existence or terms of any forgiveness</p> <p>20 agreement between Highland and Mr. Dondero?</p> <p>21 A. I have not.</p> <p>22 Q. Have you seen any documents that</p> <p>23 describe the existence or terms of any forgiveness</p> <p>24 agreement between Highland and any corporate</p> <p>25 affiliate?</p>
<p style="text-align: right;">Page 20</p> <p>1 ALAN JOHNSON</p> <p>2 A. I have not.</p> <p>3 Q. Have you seen any documents that</p> <p>4 describe the existence or terms of any forgiveness</p> <p>5 agreement between Highland and any person or</p> <p>6 entity in the world?</p> <p>7 A. I have not.</p> <p>8 Q. So is it fair to say that you have not</p> <p>9 seen any documentary evidence of any loan</p> <p>10 forgiveness agreement between Highland and anybody</p> <p>11 in the world?</p> <p>12 A. I have not seen any documents, that's</p> <p>13 right.</p> <p>14 Q. Okay.</p> <p>15 The agreement that Mr. Dondero</p> <p>16 described for you, do you understand that that is</p> <p>17 an oral agreement?</p> <p>18 A. I don't think he said to me it was an</p> <p>19 oral agreement. He described it to me. I</p> <p>20 don't – I don't think he – I don't remember if</p> <p>21 he characterized it as an oral agreement, but he</p> <p>22 described how – he described how – in his</p> <p>23 opinion, how the agreement worked.</p> <p>24 I don't – I don't recall if he</p> <p>25 mentioned it was just verbal or it was written. I</p>	<p style="text-align: right;">Page 21</p> <p>1 ALAN JOHNSON</p> <p>2 don't – that, I don't recall.</p> <p>3 Q. Did you ask Mr. Dondero or any of his</p> <p>4 attorneys if there was a written agreement?</p> <p>5 A. I don't recall if that came up. It</p> <p>6 may very well have, I don't remember whether we –</p> <p>7 whether there was an agreement or not. I just</p> <p>8 don't recall.</p> <p>9 Q. Did you or anybody working on your</p> <p>10 behalf ever ask Mr. Dondero or anybody working on</p> <p>11 his behalf if there were any documents that</p> <p>12 reflect the existence or terms of any forgiveness</p> <p>13 agreement that Highland ever entered into?</p> <p>14 A. When I talked to executives at</p> <p>15 Highland, we asked – or former executives about</p> <p>16 loans, we talked about documentation.</p> <p>17 They just didn't have any</p> <p>18 documentation of the loans they had had. They</p> <p>19 described the fact that several of them had been</p> <p>20 forgiven. The documentation had existed at one</p> <p>21 time, but they don't – they didn't keep it or</p> <p>22 didn't have it available.</p> <p>23 So we talked about that, but...</p> <p>24 Q. You're not offering any opinion as to</p> <p>25 whether an agreement actually exists pertaining to</p>

<p style="text-align: right;">Page 22</p> <p>1 ALAN JOHNSON</p> <p>2 the forgiveness of any loans that Highland</p> <p>3 extended to Mr. Dondero or his affiliates, are</p> <p>4 you?</p> <p>5 A. I am not.</p> <p>6 Q. You're not offering any opinion as to</p> <p>7 the terms of any alleged agreement between</p> <p>8 Mr. Dondero and Highland concerning the</p> <p>9 forgiveness of loans, are you?</p> <p>10 A. I am not.</p> <p>11 Q. You're not offering any opinions on</p> <p>12 the reasonableness of any of the terms of any</p> <p>13 alleged agreement between Mr. Dondero and Highland</p> <p>14 concerning the forgiveness of loans, are you?</p> <p>15 A. I am not.</p> <p>16 Q. You've been informed that this</p> <p>17 modification was intended to provide Mr. Dondero</p> <p>18 with additional compensation based on the</p> <p>19 satisfaction of what we've been calling "certain</p> <p>20 conditions subsequent." Is that fair?</p> <p>21 A. As I understood it, the loans</p> <p>22 existed – I don't know. I don't know if that's a</p> <p>23 fair characterization.</p> <p>24 I think the loans were modified –</p> <p>25 that, I'd have to really think about, because the</p>	<p style="text-align: right;">Page 23</p> <p>1 ALAN JOHNSON</p> <p>2 loans themselves may have been already</p> <p>3 compensation.</p> <p>4 I guess these would have actualized</p> <p>5 the compensation, so it certainly – if these</p> <p>6 loans were modified with the performance</p> <p>7 characteristic, it would have turned it in from</p> <p>8 perhaps deferred compensation into actual</p> <p>9 compensation.</p> <p>10 So it would have changed the</p> <p>11 characteristics of it, but I'm not sure it created</p> <p>12 compensation. There may have already been</p> <p>13 compensation in these loans in the first place.</p> <p>14 Q. Is it fair to say that you're</p> <p>15 speculating on that?</p> <p>16 A. There's some speculation there, yes.</p> <p>17 Q. Do you have any knowledge as to the</p> <p>18 intent of the parties when they entered into the</p> <p>19 modification agreement on the topic of</p> <p>20 forgiveness?</p> <p>21 A. Mr. Dondero described it as to reward</p> <p>22 him for actualizing – I guess there were three</p> <p>23 portfolio investments, and if they were – if a</p> <p>24 transaction occurred at more than the mark price,</p> <p>25 that was to reward him for having one of those</p>
<p style="text-align: right;">Page 24</p> <p>1 ALAN JOHNSON</p> <p>2 transactions occur.</p> <p>3 Q. Okay. So it was supposed to – your</p> <p>4 understanding from Mr. Dondero was that the</p> <p>5 agreement was intended to reward him if he</p> <p>6 achieved some level of performance in the future.</p> <p>7 Do I have that right?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 Do you know what the purpose of any of</p> <p>11 the loans that are the subject of the forgiveness</p> <p>12 agreement was?</p> <p>13 A. Mr. Dondero described the – the loans</p> <p>14 as a way to invest in the business rather than</p> <p>15 paying out compensation. He described it, I</p> <p>16 think, as delayed gratification, that these funds</p> <p>17 then would be invested in the business rather than</p> <p>18 being paid out to him as – as current</p> <p>19 compensation.</p> <p>20 Q. Do you know what the – what the</p> <p>21 obligors under the various loans did with the</p> <p>22 proceeds that they received from Highland?</p> <p>23 A. Mr. Dondero described it as the</p> <p>24 proceeds would be reinvested in the business.</p> <p>25 Q. Do you have any source of information</p>	<p style="text-align: right;">Page 25</p> <p>1 ALAN JOHNSON</p> <p>2 as to the intent of the forgiveness agreement</p> <p>3 other than what Mr. Dondero told you?</p> <p>4 A. No.</p> <p>5 Q. Do you have any source of information</p> <p>6 other than Mr. Dondero as to the purpose of each</p> <p>7 of the loans that are the subject of the</p> <p>8 forgiveness agreement?</p> <p>9 A. Just going back to the prior comment,</p> <p>10 that he had described the general practice that</p> <p>11 the loans were to give him the ability to reinvest</p> <p>12 in the business, but not – not – that was in the</p> <p>13 totality, not loan by loan.</p> <p>14 Q. All right.</p> <p>15 But your sole source of information</p> <p>16 regarding that topic is Mr. Dondero.</p> <p>17 Do I have that right?</p> <p>18 A. It was – when I interviewed the other</p> <p>19 Highland – former Highland executives, they also</p> <p>20 described the general practice of that as well,</p> <p>21 that going back a long time, they were familiar</p> <p>22 with that idea of delaying it and reinvesting in</p> <p>23 the business.</p> <p>24 So that went back away, but most of</p> <p>25 it is Mr. Dondero.</p>

<p style="text-align: right;">Page 26</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Did they tell you anything concerning</p> <p>3 the intent of the loans other than what you've</p> <p>4 just described?</p> <p>5 A. They described their individual</p> <p>6 circumstances around why the loans were made to</p> <p>7 them and the circumstances, but the intent of the</p> <p>8 loan itself, no. It just – some comments from</p> <p>9 them and Mr. Dondero.</p> <p>10 Q. Okay. I apologize, I probably wasn't</p> <p>11 clear here. I am only talking about the loans</p> <p>12 that are the subject of the forgiveness agreement</p> <p>13 that's – that's part of the lawsuit. I'm not</p> <p>14 talking about any loans to any prior employees.</p> <p>15 So I think – I think we may have been</p> <p>16 talking past each other, so let me try again.</p> <p>17 With respect to the purpose of each of</p> <p>18 the loans that are the subject of the pending</p> <p>19 lawsuit, do you have any source of information</p> <p>20 regarding their purpose other than Mr. Dondero?</p> <p>21 A. I do not.</p> <p>22 Q. Okay.</p> <p>23 Do you have any source of information</p> <p>24 other than Mr. Dondero concerning what the</p> <p>25 obligors of each of the loans that's subject to</p>	<p style="text-align: right;">Page 27</p> <p>1 ALAN JOHNSON</p> <p>2 the lawsuit did with the proceeds?</p> <p>3 A. Just a description from Mr. Dondero</p> <p>4 about the purpose of the – what the loans would</p> <p>5 be used for.</p> <p>6 Q. Okay.</p> <p>7 So your understanding from Mr. Dondero</p> <p>8 was that the purpose of the forgiveness agreement</p> <p>9 that he entered into in late 2018 or early 2019</p> <p>10 was to incentivize him to perform in the future,</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And, in fact, your understanding is</p> <p>14 that under the modification agreement, the loans</p> <p>15 will only be forgiven if some future event occurs,</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. The loan was not intended to provide</p> <p>19 him for compensation for services previously</p> <p>20 rendered. Is that fair?</p> <p>21 A. No. As I – as I mentioned earlier,</p> <p>22 my speculation was that the – the loans were,</p> <p>23 using his words, delayed gratification. He paid</p> <p>24 himself and others less than the market wage and</p> <p>25 used loans as a form of compensation in the past.</p>
<p style="text-align: right;">Page 28</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Well, if the assets subject to the</p> <p>3 agreement are not sold above cost, Mr. Dondero</p> <p>4 will never get any gratification. Is that</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 MR. AIGEN: Objection, form.</p> <p>8 Q. I think you said that you have</p> <p>9 experience giving advice concerning forgivable</p> <p>10 loans.</p> <p>11 Do I have that right?</p> <p>12 A. Yes.</p> <p>13 Q. And have you ever given advice on how</p> <p>14 to structure forgivable loans as part of executive</p> <p>15 compensation?</p> <p>16 A. Yes.</p> <p>17 Q. Can you please describe your</p> <p>18 experience in that area?</p> <p>19 A. From time to time, clients or we come</p> <p>20 up with using loans as a vehicle to incent and</p> <p>21 motivate executives and senior professionals. So</p> <p>22 we'll get involved in the magnitude of the loans,</p> <p>23 the terms, interest rates, you know, if there's</p> <p>24 performance attached to it, what the performance</p> <p>25 would be defined as.</p>	<p style="text-align: right;">Page 29</p> <p>1 ALAN JOHNSON</p> <p>2 So it would be around sizing,</p> <p>3 magnitudes, the terms, you know, of how the loans</p> <p>4 would work.</p> <p>5 Q. When giving advice – you know, I want</p> <p>6 to, if I can use, a phrase here during the</p> <p>7 deposition of "decision maker."</p> <p>8 If I use the word – the phrase</p> <p>9 "decision maker," will you understand that I mean</p> <p>10 the person who is acting on behalf of the employer</p> <p>11 to make the decision – to actually make the</p> <p>12 decision as to whether or not to forgive a loan?</p> <p>13 A. Okay.</p> <p>14 Q. Somebody has to act on behalf of the</p> <p>15 company – you would agree, based on your</p> <p>16 expertise, that somebody has to make the decision</p> <p>17 on behalf of the company whether or not to forgive</p> <p>18 loans. Is that fair?</p> <p>19 A. Well, it could be a committee like a</p> <p>20 board or a comp committee or others, but there</p> <p>21 needs to be somebody or person that decides.</p> <p>22 Q. Okay.</p> <p>23 So whether it's a board of directors</p> <p>24 or a special committee or a compensation committee</p> <p>25 or a CEO, if he or she is dealing with other</p>

<p style="text-align: right;">Page 30</p> <p>1 ALAN JOHNSON</p> <p>2 employees, I'm going to use the phrase "decision</p> <p>3 maker" to refer to that person or body who is</p> <p>4 making the decision on behalf of the employer to</p> <p>5 forgive a loan as part of executive compensation.</p> <p>6 Is that fair?</p> <p>7 A. Sure. Okay.</p> <p>8 Q. Okay.</p> <p>9 And you've given advice to decision</p> <p>10 makers using the definition that I've just</p> <p>11 described, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 When you give advice to decision</p> <p>15 makers who are considering whether to forgive</p> <p>16 loans as part of executive compensation, do you</p> <p>17 advise them to obtain any information before</p> <p>18 making that decision?</p> <p>19 A. You want them to be informed. Maybe</p> <p>20 they already have adequate information about</p> <p>21 circumstances, but you would certainly want them</p> <p>22 to be informed before they made a – certainly, a</p> <p>23 final decision.</p> <p>24 Q. And if you were giving expert advice</p> <p>25 to a decision maker, what areas would you tell</p>	<p style="text-align: right;">Page 31</p> <p>1 ALAN JOHNSON</p> <p>2 them that they ought to be informed on before they</p> <p>3 enter into a forgiveness?</p> <p>4 A. Make sure I understand the question,</p> <p>5 you're talking about before they do the agreement</p> <p>6 itself, not the forgiveness of it but structuring</p> <p>7 the agreement?</p> <p>8 Q. No. I apologize. I'm not talking</p> <p>9 about the underlying loan. I'm talking about the</p> <p>10 decision to enter into an agreement pursuant to</p> <p>11 which, you know, loans would be forgiven, what</p> <p>12 information should they have before they're –</p> <p>13 that kind of an agreement?</p> <p>14 A. Fair enough.</p> <p>15 They should understand the – the</p> <p>16 magnitude of the accomplishment that would be</p> <p>17 attached to the – to the loans.</p> <p>18 They should have a basic understanding</p> <p>19 of the magnitude of the loans, the magnitude of</p> <p>20 the events that they're incenting or rewarding, if</p> <p>21 it is – is there some proportionality between the</p> <p>22 success and the amount of loan forgiveness?</p> <p>23 They should have some idea of the</p> <p>24 probability of these accomplishments happening.</p> <p>25 Is it highly unlikely or very likely to happen?</p>
<p style="text-align: right;">Page 32</p> <p>1 ALAN JOHNSON</p> <p>2 So I think they should have some</p> <p>3 understanding of the proportionality. They should</p> <p>4 have some understanding of difficulty. And is it</p> <p>5 a – is it fair to forgive these loan if these</p> <p>6 events occur?</p> <p>7 Q. Let's talk about some information.</p> <p>8 In your opinion, should the decision</p> <p>9 maker be knowledgeable about the executive's</p> <p>10 compensation history before entering into an</p> <p>11 agreement concerning the forgiveness of any loans?</p> <p>12 A. The decision maker should have a</p> <p>13 general understanding of the pay history of the</p> <p>14 individual, the context of the company, the</p> <p>15 situation. It should – it would be one of the</p> <p>16 factors that you should – you should certainly be</p> <p>17 aware of.</p> <p>18 Q. And why do you believe that a decision</p> <p>19 maker should be knowledgeable about the</p> <p>20 executive's pay history before she, he or it</p> <p>21 agrees to forgive loans?</p> <p>22 A. I think in the real world, you want to</p> <p>23 understand the context. Has this executive been</p> <p>24 very well paid or poorly paid in the past? What</p> <p>25 is that individual's perspective on his or she's</p>	<p style="text-align: right;">Page 33</p> <p>1 ALAN JOHNSON</p> <p>2 pay history? I think that's relevant.</p> <p>3 You know, is the forgiveness of the</p> <p>4 loan significant enough to motivate the behaviors</p> <p>5 that you're trying to do? If that individual –</p> <p>6 if this is a trivial amount, then it won't have</p> <p>7 much of an impact. If it's overwhelming, maybe it</p> <p>8 will lead to behaviors that are not good, take too</p> <p>9 much risk or whatever.</p> <p>10 So, yes, you should be aware of the</p> <p>11 pay history, but also, the business context, how</p> <p>12 important is it for these events to happen. Is</p> <p>13 this – is this very significant in the company's</p> <p>14 future?</p> <p>15 So yes, you should be aware.</p> <p>16 Q. Can you think of any circumstances</p> <p>17 where it would be appropriate for a decision maker</p> <p>18 to agree to forgive loans as part of an</p> <p>19 executive's compensation without having an</p> <p>20 understanding of the executive's compensation</p> <p>21 history?</p> <p>22 A. Well, you – sometimes, you have new</p> <p>23 executives, so you wouldn't – you wouldn't have</p> <p>24 any pay history to be aware of. And some – many</p> <p>25 of our clients, the pay history is somewhat murky</p>

<p style="text-align: right;">Page 34</p> <p>1 ALAN JOHNSON</p> <p>2 or complicated, so it would not be ideal, but it</p> <p>3 certainly has happened.</p> <p>4 Q. So -- so it happens, you think -- the</p> <p>5 circumstances you can think of are for new</p> <p>6 employees or for people with murky compensation</p> <p>7 histories.</p> <p>8 Do I have that right?</p> <p>9 A. I think that would usually be the</p> <p>10 circumstances where you would at least have some</p> <p>11 good, general understanding of somebody's pay</p> <p>12 history.</p> <p>13 Q. Would you recommend that the decision</p> <p>14 maker seek information concerning the executive's</p> <p>15 compensation history before agreeing to forgive</p> <p>16 any loans?</p> <p>17 A. I -- generally, advice, I would want</p> <p>18 to know that. So yes, I would suggest they find</p> <p>19 that out, if it's feasible or -- but yes, that</p> <p>20 would be one of the things I would probably</p> <p>21 suggest.</p> <p>22 Q. Would you ever advise a decision maker</p> <p>23 to forgive loans without having an understanding</p> <p>24 of the executive's compensation history?</p> <p>25 A. I probably would not suggest that you</p>	<p style="text-align: right;">Page 35</p> <p>1 ALAN JOHNSON</p> <p>2 forgive the loans without having some knowledge of</p> <p>3 that. It's possible to get it.</p> <p>4 Q. Would you ever advise a decision maker</p> <p>5 to forgive loans as part of executive compensation</p> <p>6 without ever asking anybody for information</p> <p>7 relating to the executive's compensation history?</p> <p>8 A. I would not recommend that usually.</p> <p>9 Q. Okay. Let's talk about the entity's</p> <p>10 financial condition.</p> <p>11 In your opinion, is the entity's</p> <p>12 financial condition relevant for a decision maker</p> <p>13 to consider before entering into a loan</p> <p>14 forgiveness program?</p> <p>15 A. I think the financial condition is</p> <p>16 certainly relevant, and as I mentioned earlier,</p> <p>17 the significance of the events that you're trying</p> <p>18 to motivate.</p> <p>19 So yes, I think you want to know both.</p> <p>20 You'd want to know your financial condition and</p> <p>21 you want to know the significance of the events</p> <p>22 that you're trying to -- to reward.</p> <p>23 Q. And why do you believe in your expert</p> <p>24 opinion that the decision maker should have an</p> <p>25 understanding of the entity's financial condition</p>
<p style="text-align: right;">Page 36</p> <p>1 ALAN JOHNSON</p> <p>2 before agreeing to forgive loans?</p> <p>3 A. Well, I think you'd want to know just</p> <p>4 would the forgiveness of these loans be</p> <p>5 significant to the financial condition of the</p> <p>6 company. It may be significant to the individual</p> <p>7 but be trivial to the overall organization, so I</p> <p>8 think you'd want to know are these loans</p> <p>9 significant in terms of the financial condition of</p> <p>10 the company.</p> <p>11 Q. Can you think of any circumstance</p> <p>12 where it would be appropriate for a decision maker</p> <p>13 to agree to forgive loans as part of executive</p> <p>14 compensation without having an understanding of</p> <p>15 the entity's financial condition?</p> <p>16 A. No. I don't think that would be</p> <p>17 ideal. I think you would certainly -- you would</p> <p>18 want to know the condition of the business.</p> <p>19 Q. Okay. I'm not asking you what's</p> <p>20 ideal.</p> <p>21 Can you ever -- can you fathom any</p> <p>22 scenario where it would be appropriate for a</p> <p>23 decision maker to agree to forgive loans without</p> <p>24 having an understanding of the employer's</p> <p>25 financial condition?</p>	<p style="text-align: right;">Page 37</p> <p>1 ALAN JOHNSON</p> <p>2 A. Well, I think if there's a chaotic</p> <p>3 financial situation, say the financial crisis or</p> <p>4 others where it's very difficult or impossible to</p> <p>5 get a clear understanding of the financial</p> <p>6 condition of the business or it's in dispute</p> <p>7 where -- what the condition is.</p> <p>8 So that can exist, and I think in</p> <p>9 those situations you'd need to make a decision.</p> <p>10 Maybe forgiving the loans is appropriate even</p> <p>11 though you may not have a clear idea of the</p> <p>12 financial condition.</p> <p>13 So it's not ideal, but I've had</p> <p>14 clients, you know, where the financial condition</p> <p>15 was uncertain and different people had different</p> <p>16 opinions, but you still had to make a decision.</p> <p>17 So that's why I used the word "ideal."</p> <p>18 It would be ideal to have it, but sometimes you</p> <p>19 just don't have that -- you don't have that</p> <p>20 clarity.</p> <p>21 Q. Do you have any reason to believe that</p> <p>22 during the seven-year period -- withdrawn.</p> <p>23 Can you think of a circumstance where</p> <p>24 it would be appropriate for a decision maker to</p> <p>25 enter into a loan forgiveness program as part of</p>

<p style="text-align: right;">Page 38</p> <p>1 ALAN JOHNSON</p> <p>2 executive compensation without even asking for</p> <p>3 information relating to a company's financial</p> <p>4 condition?</p> <p>5 A. Well, I don't -- if they already had a</p> <p>6 good familiarity, they perhaps often don't need to</p> <p>7 ask, but if they weren't clear, then they should</p> <p>8 ask.</p> <p>9 Q. Okay.</p> <p>10 Is it fair to say that you would never</p> <p>11 advise a decision maker to enter into a forgivable</p> <p>12 loan program as part of executive compensation</p> <p>13 without having an understanding of the entity's</p> <p>14 financial condition?</p> <p>15 A. Well, I think -- as I said earlier, I</p> <p>16 think there are situations where you just can't</p> <p>17 know what the condition is. If -- if -- I think</p> <p>18 the decision maker should try to understand the</p> <p>19 condition of the business to the best of their</p> <p>20 ability, but if that's not possible, they still</p> <p>21 may have to make a decision on loans or other --</p> <p>22 other compensation elements.</p> <p>23 Q. Let's say it is possible to understand</p> <p>24 the entity's financial condition. In a</p> <p>25 hypothetical world, if you could understand the</p>	<p style="text-align: right;">Page 39</p> <p>1 ALAN JOHNSON</p> <p>2 entity's financial condition and it wasn't subject</p> <p>3 to dispute at that moment in time, would you be</p> <p>4 able to -- would you ever advise the decision</p> <p>5 maker to enter into the loan forgiveness program</p> <p>6 without attempting to gain an understanding of</p> <p>7 that very financial condition?</p> <p>8 A. No. I would suggest to the client</p> <p>9 that they try to understand that condition.</p> <p>10 Q. And if there was information</p> <p>11 available, would you always advise your client to</p> <p>12 try to obtain that information concerning the</p> <p>13 entity's financial condition before entering into</p> <p>14 an agreement to forgive loans as part of executive</p> <p>15 compensation?</p> <p>16 A. I think you would almost always or</p> <p>17 often try to do that. I don't -- again, there are</p> <p>18 practicalities of time frames and getting the data</p> <p>19 and so forth might enter into it, but yes, I think</p> <p>20 the -- the general thesis is, if you're going to</p> <p>21 make forgivable loans, you should try to have an</p> <p>22 understanding of the condition of the business.</p> <p>23 Q. Okay. Let's drill down on that just a</p> <p>24 little bit and talk specifically about financial</p> <p>25 statements.</p>
<p style="text-align: right;">Page 40</p> <p>1 ALAN JOHNSON</p> <p>2 When I use the phrase "financial</p> <p>3 statements," I'm thinking of your traditional</p> <p>4 package in an audit report, the balance sheet,</p> <p>5 statement of operations, cash flow, P&L</p> <p>6 statements.</p> <p>7 You're familiar with that type of</p> <p>8 document, right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay.</p> <p>11 In your opinion, should a decision</p> <p>12 maker review and understand the financial</p> <p>13 statements of the -- of the employer before</p> <p>14 agreeing to enter into a loan forgiveness program?</p> <p>15 A. They should -- they should have a</p> <p>16 basic understanding of financial statements, yes.</p> <p>17 Q. And that's the advice that you would</p> <p>18 always give to a decision maker, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And why would you give that advice?</p> <p>21 A. Well, I think that you would want --</p> <p>22 as part of making forgivable loans or any</p> <p>23 compensation, you would want to have a basic</p> <p>24 knowledge of the financial condition of the</p> <p>25 business.</p>	<p style="text-align: right;">Page 41</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Can you think of any circumstance</p> <p>3 where it would be appropriate for a decision maker</p> <p>4 to agree to forgive loans as part of an executive</p> <p>5 compensation package without having a basic</p> <p>6 knowledge of the financial condition of the</p> <p>7 employer?</p> <p>8 A. Well, I think, as I said earlier, if</p> <p>9 it's -- if it's just not possible to do that, you</p> <p>10 just can't -- it's chaotic enough or it's just</p> <p>11 very difficult to figure out the condition of the</p> <p>12 business, then you still have to make decisions,</p> <p>13 but you should strive to have an understanding</p> <p>14 before you make these decisions.</p> <p>15 Q. Can you think of any circumstance</p> <p>16 where a decision maker should enter into a loan</p> <p>17 forgiveness program without asking to see the</p> <p>18 financial statements of the employer?</p> <p>19 A. Well, if someone already has a good</p> <p>20 understanding, you may not need to supplement</p> <p>21 that, but if you don't have a clear understanding,</p> <p>22 you should have -- you should try to obtain that.</p> <p>23 Q. Is it fair to say you would never</p> <p>24 advise a decision maker to agree to forgive loans</p> <p>25 as part of executive compensation without</p>

<p style="text-align: right;">Page 42</p> <p>1 ALAN JOHNSON</p> <p>2 understanding the entity's financial statements,</p> <p>3 including its profit and loss and its balance</p> <p>4 sheet?</p> <p>5 A. As I said earlier, you would try to</p> <p>6 have that understanding if it's possible,</p> <p>7 absolutely.</p> <p>8 Q. Okay.</p> <p>9 Under the modification agreement</p> <p>10 that's described in your report, the 2018 loans</p> <p>11 are to be forgiven upon the sale of certain assets</p> <p>12 above cost.</p> <p>13 Do I have that right?</p> <p>14 A. Yes.</p> <p>15 Q. And so is it fair to call that kind of</p> <p>16 a contingency, the forgiveness is contingent upon</p> <p>17 a future event?</p> <p>18 A. Yes.</p> <p>19 Q. And the future event here, or the</p> <p>20 "subsequent event" as we call it sometimes, is the</p> <p>21 sale of one of three assets above cost.</p> <p>22 Do I have that right?</p> <p>23 A. Yes.</p> <p>24 Q. I think you said this earlier, but</p> <p>25 just to make sure, before agreeing to provide</p>	<p style="text-align: right;">Page 43</p> <p>1 ALAN JOHNSON</p> <p>2 compensation through forgivable loans, would you</p> <p>3 advise the decision maker under this scenario to</p> <p>4 make an assessment of the likelihood that the</p> <p>5 condition subsequent would occur?</p> <p>6 A. You would want to have that basic</p> <p>7 understanding. It's difficult to forecast, but</p> <p>8 yes, you would want to look at the magnitude of</p> <p>9 the forgivable – the amount of loans being</p> <p>10 forgiven and the significance of these</p> <p>11 accomplishments along with the probability of it</p> <p>12 actually happening.</p> <p>13 So you would want at least at a high</p> <p>14 level to have some either understanding or feel</p> <p>15 for the magnitude of the loans, the significance</p> <p>16 of the accomplishments and their likelihood of it</p> <p>17 happening.</p> <p>18 Q. And if we – if we applied those</p> <p>19 thoughts to this case, would you recommend or</p> <p>20 advise the decision maker that he or she obtain</p> <p>21 information about the cost of each of the three</p> <p>22 assets that are subject to the conditions</p> <p>23 subsequent?</p> <p>24 A. Yeah, you would want to understand the</p> <p>25 significance of these transactions, the proceeds,</p>
<p style="text-align: right;">Page 44</p> <p>1 ALAN JOHNSON</p> <p>2 the – have an understanding of how significant</p> <p>3 these amounts are to the – to the company.</p> <p>4 Q. And would you also advise your client,</p> <p>5 who's the decision maker in this hypothetical,</p> <p>6 that he or she or it should obtain information</p> <p>7 about the value of those assets as of the date of</p> <p>8 the agreement?</p> <p>9 A. You should have a basic understanding</p> <p>10 of the value of these assets, where they're marked</p> <p>11 on the books, around the time you do the</p> <p>12 agreement.</p> <p>13 Q. Why do you believe that the decision</p> <p>14 maker should have at the time of the agreement</p> <p>15 information enabling him, her or it to make an</p> <p>16 assessment as to the likelihood that the condition</p> <p>17 subsequent will occur?</p> <p>18 A. Well, I think if you're trying to</p> <p>19 motivate someone or reward someone, you have to</p> <p>20 have some idea, is it likely to happen? Is it</p> <p>21 impossible? Is it certainty?</p> <p>22 Again, I think that's part of the</p> <p>23 calculus is to reward someone for achieving</p> <p>24 something that may be difficult with a significant</p> <p>25 payout but it's not impossible.</p>	<p style="text-align: right;">Page 45</p> <p>1 ALAN JOHNSON</p> <p>2 So I think as you design either loans</p> <p>3 or more commonly, comp program, you've got to</p> <p>4 assess the difficulty and importance of these</p> <p>5 things happening.</p> <p>6 Q. Can you think of any circumstances</p> <p>7 where it would be appropriate for a decision maker</p> <p>8 to enter into an agreement to forgive loans based</p> <p>9 on some future event without having an</p> <p>10 understanding of the likelihood that that future</p> <p>11 event will occur?</p> <p>12 A. Well, usually, when we do these</p> <p>13 things, there's a great deal of judgment and</p> <p>14 subjectivity in that.</p> <p>15 So I think it is not generally</p> <p>16 quantifiable, whether you use the word "gut</p> <p>17 feeling" or "impression" or the difficulty of</p> <p>18 these things happening. Often, it's – it's quite</p> <p>19 a subjective assessment, how difficult these</p> <p>20 things are, so you want to try to have an</p> <p>21 understanding, but it can be frustrating. It can</p> <p>22 be quite subjective about whether – the</p> <p>23 likelihood or the difficulty of these things</p> <p>24 happening.</p> <p>25 Q. Well, let's just say hypothetically</p>

<p style="text-align: right;">Page 46</p> <p>1 ALAN JOHNSON</p> <p>2 that I'm going to enter into an agreement that is</p> <p>3 going to permit me to – withdrawn.</p> <p>4 So let's say hypothetically I'm an</p> <p>5 employee and I've borrowed a hundred dollars from</p> <p>6 my employer, and my employer says to me, I'm going</p> <p>7 to forgive that hundred dollars if you sell any of</p> <p>8 three assets above cost. On the date that we</p> <p>9 entered into the agreement, each of the assets has</p> <p>10 cost me \$5 and each of the assets is worth \$100,</p> <p>11 so 20 times the cost on the date of the agreement.</p> <p>12 Do you think that's information that</p> <p>13 the decision maker should know before agreeing to</p> <p>14 forgive the \$100 loan?</p> <p>15 A. I think he should understand the value</p> <p>16 the asset that is – in your hypothetical, he</p> <p>17 should have an understanding of that and how</p> <p>18 significant in your hypothetical selling that</p> <p>19 would be to the business.</p> <p>20 Maybe that the proceeds of one of them</p> <p>21 is really significant in terms of the – turning</p> <p>22 the business around or providing liquidity or</p> <p>23 other types of things, he should have some idea of</p> <p>24 if one of those three assets are sold, what does</p> <p>25 that do to the firm and its future.</p>	<p style="text-align: right;">Page 47</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And is it fair to say that with the</p> <p>3 information about value and cost, the assessment</p> <p>4 as to whether or not the future event is likely to</p> <p>5 occur is not purely subjective and it's not purely</p> <p>6 based on a gut feeling, is that fair, if you have</p> <p>7 that information?</p> <p>8 A. It's hard. It's a lot closer to a gut</p> <p>9 feeling, subjective than objective. But it's hard</p> <p>10 to – your ability to actually sell something,</p> <p>11 when, to who, at what price, can be quite – is</p> <p>12 often quite subjective.</p> <p>13 So you may have – depending on</p> <p>14 circumstances, you may have good information of</p> <p>15 likelihood, but oftentimes, you really don't.</p> <p>16 Q. Would you – would you always advise</p> <p>17 the decision maker under this hypothetical to try</p> <p>18 to obtain as much information as he, she, or it</p> <p>19 can on the issues of cost and value of the three</p> <p>20 assets at issue?</p> <p>21 A. I would – I would tell clients to try</p> <p>22 to understand that as best they could.</p> <p>23 Q. Can you think of any circumstance</p> <p>24 where it would be appropriate for a decision maker</p> <p>25 to enter into a loan forgiveness agreement without</p>
<p style="text-align: right;">Page 48</p> <p>1 ALAN JOHNSON</p> <p>2 even asking for that information?</p> <p>3 A. Well, in circumstances where they</p> <p>4 already thought they had a good understanding,</p> <p>5 they didn't probably need to ask, but you should</p> <p>6 try to have a good understanding.</p> <p>7 Again, as I said, the significance of</p> <p>8 these assets and whether – if they're sold, for</p> <p>9 example, what that impact would be on the</p> <p>10 business.</p> <p>11 Q. I think one of the things you've done</p> <p>12 in your report is to provide your assessment of</p> <p>13 compensation paid to comparable executives.</p> <p>14 Is that fair to describe at least a</p> <p>15 portion of your report?</p> <p>16 A. Yes.</p> <p>17 Q. Okay.</p> <p>18 In your opinion, is the amount and</p> <p>19 form of compensation paid to comparable executives</p> <p>20 relevant to a decision maker's determination of</p> <p>21 whether or not to enter into a forgiveness program</p> <p>22 as part of executive compensation?</p> <p>23 A. As I said earlier, that would be one</p> <p>24 of the things you would want to have – you would</p> <p>25 want to have a general understanding of, the pay</p>	<p style="text-align: right;">Page 49</p> <p>1 ALAN JOHNSON</p> <p>2 history and the context of the situation.</p> <p>3 Q. Okay.</p> <p>4 In fact, this is what you sell. Isn't</p> <p>5 that right, one of the things you sell?</p> <p>6 A. To make sure I understand the</p> <p>7 question, what am I selling here?</p> <p>8 Q. One of the things you sell is your</p> <p>9 knowledge, expertise and experience about how</p> <p>10 comparable executives are compensated in the</p> <p>11 financial services industry, right?</p> <p>12 A. Yes.</p> <p>13 Q. And so is it fair to say that you</p> <p>14 believe the decision maker should have an</p> <p>15 understanding as to how comparable executives are</p> <p>16 compensated before agreeing to enter into an</p> <p>17 executive loan program – loan forgiveness</p> <p>18 program?</p> <p>19 A. I think more it would be about the</p> <p>20 individual's pay history. I think how other</p> <p>21 people in the industry is probably of less</p> <p>22 importance on that narrow issue.</p> <p>23 I think you'd want to know how has</p> <p>24 Mary or Jim been paid in the past on that issue</p> <p>25 rather – I think that would be more important</p>

<p style="text-align: right;">Page 50</p> <p>1 ALAN JOHNSON</p> <p>2 than how other executives in the industry had been</p> <p>3 paid.</p> <p>4 Q. Well, let's say hypothetically that in</p> <p>5 the industry, very senior founding executives get</p> <p>6 paid on the average of \$6 million a year.</p> <p>7 A. Okay.</p> <p>8 Q. And the executive at issue has</p> <p>9 received \$6 million a year for at least, let's</p> <p>10 say, 7 years, just to say hypothetically.</p> <p>11 If a decision maker wanted to forgive</p> <p>12 loans of \$50 million, do you understand the</p> <p>13 decision maker should know, is that what other</p> <p>14 people doing this job are getting? Are they</p> <p>15 getting that kind of money?</p> <p>16 Don't you think they should know that</p> <p>17 before entering into the agreement?</p> <p>18 A. Yes, I think you would want to know</p> <p>19 the magnitude, in your example of \$50 million, how</p> <p>20 does that stack up to the compensation of the</p> <p>21 executive and how other people in the industry</p> <p>22 would have been paid?</p> <p>23 So yes, you would want to – in your</p> <p>24 hypothetical, the \$50 million, you would want to</p> <p>25 have some idea of how that – the magnitude of</p>	<p style="text-align: right;">Page 51</p> <p>1 ALAN JOHNSON</p> <p>2 that money.</p> <p>3 Q. Right.</p> <p>4 A decision maker should try to take</p> <p>5 steps to avoid overpaying. Is that fair?</p> <p>6 A. A decision maker should try to both</p> <p>7 make sure you don't under or overpay. You should</p> <p>8 try to get it right and fair, whatever that means.</p> <p>9 Q. And one of the ways to get it right or</p> <p>10 fair is to try to have an understanding as to how</p> <p>11 comparable executives are compensated in the same</p> <p>12 industry. Is that fair?</p> <p>13 A. That's one of the factors you would</p> <p>14 want to consider, absolutely.</p> <p>15 Q. And you would recommend and advise</p> <p>16 your decision makers that they should attempt to</p> <p>17 gain an understanding of how comparable executives</p> <p>18 are paid before entering into a loan forgiveness</p> <p>19 program. Is that fair?</p> <p>20 A. They should try to be – whether they</p> <p>21 have it immediately or they should try to have an</p> <p>22 understanding – if they don't already, they</p> <p>23 should try to have an understanding how does this</p> <p>24 in your hypothetical \$50 million relate to, not</p> <p>25 only the executive, but how other people are paid.</p>
<p style="text-align: right;">Page 52</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay. Let's say hypothetically the</p> <p>3 decision maker has no prior knowledge as to how</p> <p>4 comparable executives are paid in the industry,</p> <p>5 would you recommend that such a decision maker</p> <p>6 hire somebody like yourself?</p> <p>7 A. They could hire someone like us or</p> <p>8 they could talk to their attorneys or they could</p> <p>9 do their own research or talk to the HR</p> <p>10 department. You could get it from many sources.</p> <p>11 But if someone were to ask me out of</p> <p>12 the blue, I would say, yeah, you should have an</p> <p>13 understanding, how does – how does the amount</p> <p>14 you're going to forgive stack up to the industry</p> <p>15 you're in? Is it a small amount, large amount?</p> <p>16 You should have some idea of the</p> <p>17 relative magnitude of the amount in question.</p> <p>18 Q. Is it fair to say that you would never</p> <p>19 advise a decision maker who has no knowledge of</p> <p>20 how comparable executives are paid to enter into a</p> <p>21 loan forgiveness program without at least</p> <p>22 attempting to understand how the – how the</p> <p>23 competition pays their employees?</p> <p>24 A. Well, the caveat of – the answer –</p> <p>25 the broad answer would be, yes, but the caveat</p>	<p style="text-align: right;">Page 53</p> <p>1 ALAN JOHNSON</p> <p>2 would be how significant the loans were.</p> <p>3 If the loans were relatively small, it</p> <p>4 probably wouldn't be required. The larger the</p> <p>5 loans, generally, you would say – you would want</p> <p>6 to have a better understanding of pay practices in</p> <p>7 the industry.</p> <p>8 Q. Okay.</p> <p>9 Let's say hypothetically the people</p> <p>10 who are involved in the discussions concerning the</p> <p>11 forgiveness of the loans are the CEO and an</p> <p>12 outside director. Okay?</p> <p>13 Are you with me so far?</p> <p>14 A. Yes. I'm sorry.</p> <p>15 Q. And let's – let's assume that the</p> <p>16 outside director has no experience in the</p> <p>17 financial services industry. Let's assume that</p> <p>18 the outside director has never worked for the</p> <p>19 company. Let's assume that the outside director</p> <p>20 doesn't have access to the company's financial</p> <p>21 statements. Okay?</p> <p>22 With that hypothetical, would you</p> <p>23 advise the decision maker to utilize a source of</p> <p>24 information other than the CEO himself before</p> <p>25 entering into the agreement?</p>

<p style="text-align: right;">Page 54</p> <p>1 ALAN JOHNSON</p> <p>2 A. In your hypothetical, as a director</p> <p>3 with fiduciary duties, you should try to have an</p> <p>4 understanding of the magnitude of what you're</p> <p>5 being asked to do, and you should try to have</p> <p>6 independent verification in one way or the other,</p> <p>7 is what being proposed, whether it be a loan or</p> <p>8 any other business decision, is this reasonable?</p> <p>9 You should try to have an understanding, yes.</p> <p>10 Q. Would you ever advise the decision</p> <p>11 maker in the circumstances that I've described in</p> <p>12 this hypothetical to rely solely on the CEO as the</p> <p>13 source of all information that would be considered</p> <p>14 before entering into the forgiveness program?</p> <p>15 A. Well, that would be very unusual. I</p> <p>16 think it really would depend on the circumstances.</p> <p>17 If the circumstance -- I can have</p> <p>18 other hypotheticals where it -- there could be a</p> <p>19 chaotic situation. It could be the -- it was an</p> <p>20 extremist situation where you need to make a rapid</p> <p>21 decision and so forth.</p> <p>22 But in more typical situations, yes,</p> <p>23 you should try to get independent advice from, you</p> <p>24 know, others or your own research to found it. If</p> <p>25 you have to make an immediate decision, you know,</p>	<p style="text-align: right;">Page 55</p> <p>1 ALAN JOHNSON</p> <p>2 you got to do what you got to do.</p> <p>3 Q. Let's take it out of the hypothetical.</p> <p>4 Have you ever advised a client to</p> <p>5 enter into a loan forgiveness program without</p> <p>6 having obtained any information from any source</p> <p>7 other than the executive or the employee who's the</p> <p>8 beneficiary under the agreement?</p> <p>9 A. I have not advised a client that way,</p> <p>10 no.</p> <p>11 Q. Would you ever advise a client to do</p> <p>12 that?</p> <p>13 A. Again, assuming it was a significant</p> <p>14 amount of money, no, I would not advise a client</p> <p>15 to do that.</p> <p>16 Q. Can you think of any -- I guess you've</p> <p>17 already described if it's an extremist or a</p> <p>18 chaotic situation.</p> <p>19 Are those the only two situations that</p> <p>20 you can conjure up in your head where it might be</p> <p>21 appropriate for a decision maker to rely solely on</p> <p>22 the beneficiary of the agreement before entering</p> <p>23 into the loan forgiveness program?</p> <p>24 A. I think with the caveat I mentioned</p> <p>25 earlier, if the amounts were small, you know, not</p>
<p style="text-align: right;">Page 56</p> <p>1 ALAN JOHNSON</p> <p>2 particularly meaningful, but if it's a meaningful</p> <p>3 amount, you would try to get information.</p> <p>4 Q. What if the amount constituted --</p> <p>5 withdrawn.</p> <p>6 Is it your understanding that the</p> <p>7 modification agreement pursuant to which certain</p> <p>8 loans will be forgiven in the future upon the</p> <p>9 occurrence of certain conditions subsequent, is it</p> <p>10 your understanding that that agreement applies not</p> <p>11 only to loans that were given to Mr. Dondero, but</p> <p>12 to loans to affiliated companies that Mr. Dondero</p> <p>13 either directly or indirectly owns and controls?</p> <p>14 A. My understanding from Mr. Dondero was</p> <p>15 all the loans. That came from him.</p> <p>16 Q. And how do you define "from him"?</p> <p>17 A. In the conversation -- the</p> <p>18 conversations I had with him.</p> <p>19 Q. I just want to know, is it just the</p> <p>20 loans that Highland gave to him as an individual</p> <p>21 human being or does it also cover loans that</p> <p>22 Highland made to entities that are directly or</p> <p>23 indirectly owned or controlled by him?</p> <p>24 A. It was my understanding from him that</p> <p>25 it was all of the loans.</p>	<p style="text-align: right;">Page 57</p> <p>1 ALAN JOHNSON</p> <p>2 Q. So do you believe that the decision</p> <p>3 maker should have a knowledge and understanding</p> <p>4 about all of the loans before entering into a</p> <p>5 forgiveness program?</p> <p>6 A. The decision maker should know the</p> <p>7 magnitude of the loans to be forgiven.</p> <p>8 Q. Do you think the decision maker should</p> <p>9 be familiar with the terms of each of the loans</p> <p>10 that are subject to the forgiveness agreement?</p> <p>11 A. I think the decision maker should have</p> <p>12 a general understanding of the terms of the loans,</p> <p>13 yes.</p> <p>14 Q. Do you think the decision maker should</p> <p>15 have an understanding as to why the loans were</p> <p>16 originally obtained?</p> <p>17 A. I think that's -- it would be ideal to</p> <p>18 do that. I think it's probably less importance.</p> <p>19 Q. Would you advise the decision maker to</p> <p>20 obtain copies of the promissory notes?</p> <p>21 A. I would want the decision maker to be</p> <p>22 generally familiar with the loans. I don't -- I</p> <p>23 don't know if they necessarily have to read each</p> <p>24 of the promissory notes, but I think they should</p> <p>25 have a general familiarity, what the loans are,</p>

<p style="text-align: right;">Page 58</p> <p>1 ALAN JOHNSON</p> <p>2 the magnitudes, the broad terms, the interest</p> <p>3 rates and the basic features.</p> <p>4 Q. And if the decision maker weren't a</p> <p>5 sophisticated party, would you advise the decision</p> <p>6 maker to obtain advice concerning the nature,</p> <p>7 extent and structure of the loans that were under</p> <p>8 consideration for forgiveness?</p> <p>9 A. I think the decision maker should have</p> <p>10 an understanding of the loan – what they're</p> <p>11 forgiving, what the terms or – you know, you</p> <p>12 should have an understanding of the structure of</p> <p>13 the loans you're forgiving.</p> <p>14 Q. Could you contemplate any situation</p> <p>15 where a decision maker should enter into a</p> <p>16 forgiveness of loans without having an</p> <p>17 understanding of the scope and structure of the</p> <p>18 loans themselves?</p> <p>19 A. No. I think – I think – as I said,</p> <p>20 I think the decision maker should have a general</p> <p>21 understanding of the loans, the amounts, the terms</p> <p>22 at least – at least at reasonably high level.</p> <p>23 Q. Would you always advise your client to</p> <p>24 understand the nature and extent of each of the</p> <p>25 loans that was under consideration for forgiveness</p>	<p style="text-align: right;">Page 59</p> <p>1 ALAN JOHNSON</p> <p>2 before actually agreeing to forgive those loans?</p> <p>3 A. If there are a lot of loans, I – it</p> <p>4 may not be practical.</p> <p>5 I think you'd want to have a general</p> <p>6 idea of the term, the amount, the interest rates.</p> <p>7 The exact provisions of each loan is probably less</p> <p>8 important. To have some understanding of how much</p> <p>9 is being at stake, when would they in general have</p> <p>10 been paid, what the interest rate would be.</p> <p>11 I think the ins and outs of each loan</p> <p>12 would probably be of less importance.</p> <p>13 Q. Do you think it would be important for</p> <p>14 the decision maker to know, let's just say</p> <p>15 hypothetically, as to whether the loans under</p> <p>16 consideration were demand loans or whether they</p> <p>17 were 30-year term notes?</p> <p>18 A. Yeah, I think you would want to know</p> <p>19 that. You would want to know – that would be one</p> <p>20 of the things you would want to know.</p> <p>21 Q. And why would you want to know that?</p> <p>22 A. I think if you're trying to design a</p> <p>23 plan, you'd want to have some idea of the urgency</p> <p>24 of the – of the loans.</p> <p>25 You mentioned a 30-year term, it</p>
<p style="text-align: right;">Page 60</p> <p>1 ALAN JOHNSON</p> <p>2 perhaps is less urgent than a demand note, so I</p> <p>3 think if you're trying to incent someone to</p> <p>4 achieve something, you want to have some idea of</p> <p>5 the urgency of these loans that are outstanding.</p> <p>6 Q. Can you think of any circumstance</p> <p>7 where it would be appropriate for a decision maker</p> <p>8 to agree to forgive loans without having an</p> <p>9 understanding as to the number, value and</p> <p>10 structure of the loans that are to be forgiven?</p> <p>11 A. The number of loans is probably of</p> <p>12 less importance, as I said earlier. I think you'd</p> <p>13 want to know the rough magnitude of what we're</p> <p>14 forgiving, and I think you would want to know the</p> <p>15 basic structure of the loans.</p> <p>16 Q. I appreciate that, but can you think</p> <p>17 of any circumstance where the decision maker</p> <p>18 should agree to forgive loans without knowing the</p> <p>19 structure and aggregate value the loans being</p> <p>20 forgiven?</p> <p>21 A. No. I think – I think the decision</p> <p>22 maker should have a general understanding of the</p> <p>23 dollar amounts and the structure of the loans to</p> <p>24 be forgiven.</p> <p>25 Q. And you would never advise a client to</p>	<p style="text-align: right;">Page 61</p> <p>1 ALAN JOHNSON</p> <p>2 forgive loans without knowing the dollar amount</p> <p>3 and the structure of the loans themselves,</p> <p>4 correct?</p> <p>5 A. That would not be my advice, no.</p> <p>6 Q. Okay.</p> <p>7 Do you believe that a decision maker</p> <p>8 who's considering entering into a loan forgiveness</p> <p>9 program as part of executive compensation has a</p> <p>10 duty to try to negotiate the best terms possible</p> <p>11 for the company?</p> <p>12 A. I think the decision maker has to have</p> <p>13 reasonable terms and a fair agreement. I don't</p> <p>14 think they have an obligation to necessarily</p> <p>15 strike the best possible deal. They've got to</p> <p>16 balance a number of factors, but the deal should</p> <p>17 clearly be fair to the company.</p> <p>18 Q. And why do you believe that a decision</p> <p>19 maker should make sure that the agreement is fair</p> <p>20 to the company before entering into it?</p> <p>21 A. Well, I think the – the decision</p> <p>22 maker has a responsibility to be fair to the</p> <p>23 shareholders and the other parties at the company,</p> <p>24 and the agreement should be fair to – to the</p> <p>25 company – the interest of the company.</p>

<p style="text-align: right;">Page 62</p> <p>1 ALAN JOHNSON</p> <p>2 If they're in the position of making</p> <p>3 that decision and they're representing the</p> <p>4 company, the decision should be fair.</p> <p>5 Q. And how – how would you advise a</p> <p>6 decision maker to make sure that the agreement was</p> <p>7 fair before he, she, or it entered into it?</p> <p>8 A. Well, if we're talking about loans, as</p> <p>9 I said earlier, you want to know the rough</p> <p>10 magnitude of the loans and the terms. You'd want</p> <p>11 to know the achievement of these goals, how</p> <p>12 significant are they for the success of the</p> <p>13 company, and try to balance that, and the</p> <p>14 probabilities and other things.</p> <p>15 But you'd want to balance that in a</p> <p>16 fair way where you felt that the – if it's a</p> <p>17 loan, the forgiveness of these loans is – is</p> <p>18 fairly rewarded by the achievement of these goals.</p> <p>19 Q. And so in order to assess the</p> <p>20 fairness, you testified earlier that you would</p> <p>21 always advise the decision maker to the extent</p> <p>22 possible to obtain information concerning the</p> <p>23 executive's compensation history, correct?</p> <p>24 A. You would want to know that if they</p> <p>25 didn't know it already. You would want to have</p>	<p style="text-align: right;">Page 63</p> <p>1 ALAN JOHNSON</p> <p>2 them have some idea of the individual's pay</p> <p>3 history. That would be one of the things you'd</p> <p>4 want to know.</p> <p>5 Q. And in order to assess the fairness of</p> <p>6 the transaction before entering into it, you would</p> <p>7 always recommend to the extent possible that the</p> <p>8 decision maker understand the financial condition</p> <p>9 of the employer, correct?</p> <p>10 A. You would want the decision maker to</p> <p>11 understand, as best they could in the</p> <p>12 circumstances, the condition, you know, of the</p> <p>13 company at that time.</p> <p>14 Q. And in order to assess the fairness of</p> <p>15 the transaction before you enter into it, you</p> <p>16 would always advise the decision maker to the</p> <p>17 extent possible to obtain and understand the</p> <p>18 employer's financial statements. Is that fair?</p> <p>19 A. As part of that, if they didn't</p> <p>20 already have an understanding – that's really</p> <p>21 part of the financial condition of the company –</p> <p>22 you'd want them to have a general understanding of</p> <p>23 the financial position of the company, you know,</p> <p>24 when the loan agreement was made.</p> <p>25 Q. And in order to assess the fairness of</p>
<p style="text-align: right;">Page 64</p> <p>1 ALAN JOHNSON</p> <p>2 the transaction before entering into it – give me</p> <p>3 one second, please. Sorry.</p> <p>4 Before entering the – in order to</p> <p>5 assess the transaction – withdrawn.</p> <p>6 In order to assess the fairness of a</p> <p>7 transaction before entering into it, you would</p> <p>8 always advise the decision maker to obtain</p> <p>9 information so that he, she, or it, could assess</p> <p>10 the likelihood of any future, subsequent events</p> <p>11 for which the forgiveness is contingent. Is that</p> <p>12 fair?</p> <p>13 A. The best you can, you want to at least</p> <p>14 have an impression of the difficulty or likelihood</p> <p>15 of these events being achieved.</p> <p>16 As I said earlier, that often is quite</p> <p>17 subjective. You have an impression, but you at</p> <p>18 least want to have some impression as best you can</p> <p>19 of the likelihood and importance of these things</p> <p>20 happening.</p> <p>21 Q. And – and in order to assess the</p> <p>22 fairness of the transaction before entering into</p> <p>23 it, you would always recommend that the decision</p> <p>24 maker seek and obtain as much information as</p> <p>25 possible about how comparable executives are paid.</p>	<p style="text-align: right;">Page 65</p> <p>1 ALAN JOHNSON</p> <p>2 Is that fair?</p> <p>3 A. As part of making this, I think you</p> <p>4 would want to have some idea of the magnitude of</p> <p>5 the loan being forgiven and how does that stack up</p> <p>6 with the pay of other people in the industry, the</p> <p>7 context of those decisions.</p> <p>8 Q. And in order to determine the fairness</p> <p>9 of the loan before – withdrawn.</p> <p>10 In order to determine the fairness of</p> <p>11 a forgiveness agreement before entering into it,</p> <p>12 you would always advise the decision maker to have</p> <p>13 at least an understanding as to the aggregate</p> <p>14 value and the structure of the loans that are to</p> <p>15 be forgiven, correct?</p> <p>16 A. Yes, you would want to have that</p> <p>17 knowledge.</p> <p>18 Q. Okay.</p> <p>19 So let's go back to the hypothetical</p> <p>20 where you have the CEO and an outside director</p> <p>21 who's not familiar with the industry and doesn't</p> <p>22 have access to financial statements or any</p> <p>23 information about comparable executives.</p> <p>24 In that hypothetical, if the executive</p> <p>25 were to go to the outside director and make a</p>

<p style="text-align: right;">Page 66</p> <p>1 ALAN JOHNSON</p> <p>2 proposal regarding loan forgiveness, would you</p> <p>3 advise that decision maker to try to negotiate</p> <p>4 with the executive?</p> <p>5 A. Well, it depends on what the terms are</p> <p>6 being proposed. It may on its – its face be a</p> <p>7 fair deal and you don't need to negotiate. If</p> <p>8 the – if the term – if the director believes the</p> <p>9 terms are not as being proposed fair, yes, they</p> <p>10 should negotiate and try to get an agreement that</p> <p>11 is at least fair from the standpoint of the</p> <p>12 company.</p> <p>13 Q. Well, in my hypothetical, assume that</p> <p>14 the decision maker, the director, doesn't have any</p> <p>15 information concerning the executive's</p> <p>16 compensation history, doesn't have an</p> <p>17 understanding of the entity's financial condition,</p> <p>18 hasn't obtained or reviewed the entity's financial</p> <p>19 statements, hasn't spoken to anybody other than</p> <p>20 the CEO himself, has no experience in the</p> <p>21 industry, has no expertise in the area of</p> <p>22 executive compensation, would you advise that</p> <p>23 particular decision maker to enter into the</p> <p>24 agreement that's first proposed by the CEO without</p> <p>25 negotiation?</p>	<p style="text-align: right;">Page 67</p> <p>1 ALAN JOHNSON</p> <p>2 A. Well, I think even before negotiation,</p> <p>3 in your hypothetical, someone who knows nothing</p> <p>4 should get informed before they make any decision.</p> <p>5 So that probably comes first.</p> <p>6 You know, once they got better</p> <p>7 informed, they could decide on whether they need</p> <p>8 to negotiate or the offer on its face is fair, but</p> <p>9 if they know nothing, they should get informed</p> <p>10 before they agree to any decision.</p> <p>11 Q. Based on your knowledge and experience</p> <p>12 and expertise in the industry, can you conjure up</p> <p>13 a scenario where a decision maker who knows</p> <p>14 nothing but nevertheless enters into a forgiveness</p> <p>15 program has fulfilled his, her, or its duties to</p> <p>16 the company?</p> <p>17 MR. AIGEN: Objection, form.</p> <p>18 A. I'm sorry, could you repeat the</p> <p>19 question? I lost my train of thought.</p> <p>20 Q. Sure.</p> <p>21 Let's assume the decision maker knows</p> <p>22 nothing. In your opinion, can that decision maker</p> <p>23 ever fulfill his, her, or its duty by entering</p> <p>24 into a loan forgiveness program with the CEO?</p> <p>25 MR. AIGEN: Objection, form.</p>
<p style="text-align: right;">Page 68</p> <p>1 ALAN JOHNSON</p> <p>2 A. Well, I think the director could get</p> <p>3 lucky where the proposal was imminently fair and</p> <p>4 you – you put it in place, but certainly, you're</p> <p>5 at risk of agreeing to something that's not fair.</p> <p>6 But a director or a company could get lucky in</p> <p>7 that the proposal was – was fair on its face,</p> <p>8 so...</p> <p>9 Q. Would you ever advise a client to –</p> <p>10 who was a decision maker who knew nothing to enter</p> <p>11 into the agreement and hope that he, she, or it</p> <p>12 got lucky?</p> <p>13 A. I do not advise clients to try to get</p> <p>14 lucky, no.</p> <p>15 Q. Have you ever heard of a decision</p> <p>16 maker – withdrawn.</p> <p>17 In your 30 years' experience, have you</p> <p>18 ever heard of a decision maker entering into a</p> <p>19 loan forgiveness program with no knowledge of the</p> <p>20 executive's employment history, the employer's</p> <p>21 financial condition, without an understanding of</p> <p>22 the financial statements, with no knowledge of</p> <p>23 comparable executives, have you ever heard of</p> <p>24 anybody like that ever entering into a loan</p> <p>25 forgiveness program?</p>	<p style="text-align: right;">Page 69</p> <p>1 ALAN JOHNSON</p> <p>2 A. I don't recall that – that situation,</p> <p>3 no.</p> <p>4 Q. You'd agree with me it's not common in</p> <p>5 the industry, is it?</p> <p>6 A. The facts that you've laid out would</p> <p>7 not be common, no.</p> <p>8 Q. If you were advising a decision maker</p> <p>9 who was contemplating entering into a loan</p> <p>10 forgiveness program as part of executive</p> <p>11 compensation, would you advise that decision maker</p> <p>12 to make sure that the agreement is in writing?</p> <p>13 A. Yes. Yes, I would.</p> <p>14 Q. And why would you do that?</p> <p>15 A. We – you want there to be no</p> <p>16 misunderstandings. I think many of these</p> <p>17 agreements are complicated and you – people's</p> <p>18 memory are fallible, so we often advise clients to</p> <p>19 put many agreements in writing just so there's no</p> <p>20 misunderstandings, everybody understands what the</p> <p>21 terms are.</p> <p>22 Q. Can you think of any exception to the</p> <p>23 advice you would give with respect to making sure</p> <p>24 that forgiveness agreements are in writing?</p> <p>25 Can you think of any scenario where</p>

<p style="text-align: right;">Page 70</p> <p>1 ALAN JOHNSON</p> <p>2 you would advise the decision maker, don't put</p> <p>3 that in writing?</p> <p>4 A. No. No, we wouldn't advise that.</p> <p>5 Although unfortunately, many of our clients don't</p> <p>6 put things in writing, but that would not be our</p> <p>7 advice.</p> <p>8 Q. How about a hypothetical where the</p> <p>9 agreement to forgive loans encompassed more than a</p> <p>10 dozen loans, would you also recommend that there</p> <p>11 be a written record of the identity of the loans</p> <p>12 that were the subject of the agreement?</p> <p>13 A. If there were a dozen meaningful</p> <p>14 loans, we would recommend that you have a catalog</p> <p>15 of what the loans are talking about, absolutely.</p> <p>16 Q. Can you think of any scenario where it</p> <p>17 would be appropriate to enter into an agreement</p> <p>18 for the forgiveness of a dozen or more loans</p> <p>19 without having any written record of it?</p> <p>20 A. As I said earlier, we would recommend</p> <p>21 that all of these agreements be put in writing.</p> <p>22 Q. As an expert on executive</p> <p>23 compensation, have you ever advised the decision</p> <p>24 maker to enter into an oral agreement concerning</p> <p>25 forgivable loans?</p>	<p style="text-align: right;">Page 71</p> <p>1 ALAN JOHNSON</p> <p>2 A. I – I would never – we always – I</p> <p>3 would always want to have it in writing.</p> <p>4 Q. So let's go back to my hypothetical</p> <p>5 where you have an agreement between a CEO and an</p> <p>6 outside director. If you were advising the</p> <p>7 outside director, would you tell him or her that</p> <p>8 your advice is to make sure that somebody in the</p> <p>9 organization other than the CEO knows about the</p> <p>10 terms in existence of the loan forgiveness</p> <p>11 program?</p> <p>12 A. I would tell the outside director that</p> <p>13 other people should be informed.</p> <p>14 Other directors, the – yes, I would</p> <p>15 want other people – I would – if I were asked, I</p> <p>16 would – I would suggest or recommend that other</p> <p>17 people be informed.</p> <p>18 Q. And why would you make – why would</p> <p>19 you give that advice?</p> <p>20 A. You would want – at just an</p> <p>21 operational level, you would want to make sure</p> <p>22 your finance department was aware that certain</p> <p>23 payments might stop or in preparing the financial</p> <p>24 statements or – or other just operational issues,</p> <p>25 so, again, there's no misunderstanding as you put</p>
<p style="text-align: right;">Page 72</p> <p>1 ALAN JOHNSON</p> <p>2 your financial statements together or just</p> <p>3 operationalize these loans.</p> <p>4 Q. In your – in your experience, do</p> <p>5 companies that enter into loan forgiveness</p> <p>6 programs customarily include reference to the</p> <p>7 agreements in their financial statements or in</p> <p>8 their books and records?</p> <p>9 A. It's a mixed practice. Some people do</p> <p>10 and some people don't, particularly private firms.</p> <p>11 Q. Have you ever heard of a situation</p> <p>12 where the decision maker and the executive enter</p> <p>13 into a loan forgiveness program and never tell</p> <p>14 anybody about the terms or existence of the</p> <p>15 program until after litigation is commenced?</p> <p>16 A. I don't know if I can – sitting here</p> <p>17 if I can recall a loan forgiveness program.</p> <p>18 I can – there's certainly other</p> <p>19 facets of compensation where things weren't</p> <p>20 documented and there's all kinds of disputes, but</p> <p>21 I can't sitting here think of another loan</p> <p>22 forgiveness program.</p> <p>23 Q. Okay. I appreciate that. My question</p> <p>24 is just a little bit different.</p> <p>25 Can you recall any instance in your</p>	<p style="text-align: right;">Page 73</p> <p>1 ALAN JOHNSON</p> <p>2 career where you've heard about a decision maker</p> <p>3 who entered into a loan forgiveness program with</p> <p>4 an employee but never told anybody in the world</p> <p>5 about that until after litigation was commenced?</p> <p>6 A. I can't recall any sitting here.</p> <p>7 Q. Okay. And you would never recommend</p> <p>8 that a decision maker keep to him or herself the</p> <p>9 entry into any agreement concerning the</p> <p>10 forgiveness of loans?</p> <p>11 A. I think, again, we would – I would</p> <p>12 always recommend things be in writing with the</p> <p>13 caveat if it was a small or trivial amount,</p> <p>14 perhaps it wasn't needed.</p> <p>15 Q. In your opinion are the loans at issue</p> <p>16 in this case small or trivial?</p> <p>17 A. No.</p> <p>18 MR. MORRIS: Okay. We've been going</p> <p>19 an hour and a half. I really appreciate</p> <p>20 your patience, sir.</p> <p>21 Can we take just a 10-minute break and</p> <p>22 come back at 10:40 eastern? It's actually a</p> <p>23 13-minute break.</p> <p>24 THE WITNESS: Okay.</p> <p>25 MR. MORRIS: Okay. Thank you very</p>

<p style="text-align: right;">Page 74</p> <p>1 ALAN JOHNSON</p> <p>2 much.</p> <p>3 (Recess taken from 10:27 a.m. until</p> <p>4 10:40 a.m.)</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. Mr. Johnson, did you speak with</p> <p>7 anybody during the break about your testimony</p> <p>8 today?</p> <p>9 A. No.</p> <p>10 Q. Did you communicate with anybody in</p> <p>11 writing about your testimony today during the</p> <p>12 break?</p> <p>13 A. No.</p> <p>14 Q. Do you recall when you were –</p> <p>15 withdrawn. I apologize.</p> <p>16 Are you – were you engaged in this</p> <p>17 case or was your firm engaged in this case or is</p> <p>18 it one in the same?</p> <p>19 I just want to make sure I get it</p> <p>20 right.</p> <p>21 A. I was engaged as an expert witness as</p> <p>22 part of my firm.</p> <p>23 Q. Okay.</p> <p>24 Do you recall when you were engaged in</p> <p>25 this case?</p>	<p style="text-align: right;">Page 75</p> <p>1 ALAN JOHNSON</p> <p>2 A. Maybe March or April of this year.</p> <p>3 Q. Do you have an engagement letter?</p> <p>4 A. We did, yes.</p> <p>5 Q. Okay.</p> <p>6 And would that engagement letter</p> <p>7 reflect the date upon which you were engaged in</p> <p>8 this matter?</p> <p>9 A. Yes, it would.</p> <p>10 Q. Okay.</p> <p>11 Did you ever review any of the</p> <p>12 pleadings in this case, any of the complaints?</p> <p>13 A. I just don't – I don't recall.</p> <p>14 Q. Did you have any familiarity with</p> <p>15 Highland Capital Management, L.P. or any of its</p> <p>16 affiliates prior to your engagement in this case?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Did you have any familiarity with</p> <p>19 James Dondero prior to being retained in this</p> <p>20 case?</p> <p>21 A. I don't believe so.</p> <p>22 Q. I think you said that you were</p> <p>23 retained by the Stinson firm.</p> <p>24 Do I have that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 76</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And had you done work for the Stinson</p> <p>3 firm prior to this case?</p> <p>4 A. I don't believe so.</p> <p>5 Q. You have been retained by my firm</p> <p>6 before. Is that right?</p> <p>7 A. Yes.</p> <p>8 Q. Is that just one occasion?</p> <p>9 A. No, several times.</p> <p>10 Q. Oh, okay. Well, it's nice to meet you</p> <p>11 because we've never worked together, right, just</p> <p>12 for the record?</p> <p>13 A. Yes.</p> <p>14 Q. All right. We're going to put your</p> <p>15 expert report up on the screen. I forgot what</p> <p>16 number we have premarked it, but let's take a look</p> <p>17 at it.</p> <p>18 MS. CANTY: Sixty-two, John.</p> <p>19 MR. MORRIS: Thank you very much.</p> <p>20 (Exhibit 62, expert report, was marked</p> <p>21 for identification at this time.)</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. So your report, Mr. Johnson, is up on</p> <p>24 the screen. It's been premarked as Exhibit 62 for</p> <p>25 our purposes.</p>	<p style="text-align: right;">Page 77</p> <p>1 ALAN JOHNSON</p> <p>2 MR. MORRIS: And can we go to page 16,</p> <p>3 please.</p> <p>4 Q. And if we go to the bottom of the</p> <p>5 page, is that your signature, sir?</p> <p>6 A. Yes.</p> <p>7 Q. And did you sign this on or about</p> <p>8 May 28, 2021?</p> <p>9 A. Yes.</p> <p>10 Q. You haven't amended this report since</p> <p>11 May. Is that right?</p> <p>12 A. That's right.</p> <p>13 Q. Okay.</p> <p>14 And there's no modification to any of</p> <p>15 your opinions that are set forth in this report,</p> <p>16 correct?</p> <p>17 A. That's correct.</p> <p>18 Q. Okay.</p> <p>19 MR. MORRIS: Can we go to page 25,</p> <p>20 please.</p> <p>21 Q. And do you see that there's a list</p> <p>22 here of documents reviewed?</p> <p>23 A. Yes.</p> <p>24 Q. And I'm embarrassed to say, but I've</p> <p>25 actually looked at all the documents.</p>

<p style="text-align: right;">Page 78</p> <p>1 ALAN JOHNSON</p> <p>2 Is it – is it fair to characterize</p> <p>3 the documents that you reviewed as either</p> <p>4 tax-related information, financial statements from</p> <p>5 NexPoint or Highland Capital Management Fund</p> <p>6 Advisors or certain agreements between and among</p> <p>7 the parties?</p> <p>8 A. I think it's certainly that. There</p> <p>9 may be other things, but certainly, those were</p> <p>10 included in there, yes.</p> <p>11 Q. Can you identify any other type of</p> <p>12 document that you recall reviewing prior to the</p> <p>13 preparation of this report other than tax-related</p> <p>14 information, financial statements for NexPoint and</p> <p>15 HCMFA and certain agreements between and among the</p> <p>16 parties?</p> <p>17 A. You had asked about the pleadings, and</p> <p>18 I just don't recall, but with that – with that</p> <p>19 caveat, I think that's accurate.</p> <p>20 Q. Okay.</p> <p>21 And to the best of your knowledge,</p> <p>22 does this page identify every document that you</p> <p>23 were provided with prior to the preparation of</p> <p>24 your report?</p> <p>25 A. Yes, I believe so.</p>	<p style="text-align: right;">Page 79</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 You're not aware of any documents that</p> <p>4 you received that aren't disclosed on this page,</p> <p>5 right?</p> <p>6 A. Not that I'm aware of.</p> <p>7 Q. Okay.</p> <p>8 Has anybody provided you with any</p> <p>9 documents between May 28th and today that relate</p> <p>10 to the subject matter of your report?</p> <p>11 A. I'm sorry, I didn't catch the last</p> <p>12 bit.</p> <p>13 Q. Has anyone provided you any documents</p> <p>14 between May 28th, 2021 and today that concern or</p> <p>15 relate to any aspect of your report?</p> <p>16 A. I'm not sure how to answer the</p> <p>17 question. I received other documents, so I'm not</p> <p>18 sure what you're trying to get at.</p> <p>19 Q. What other documents do you recall</p> <p>20 receiving since May 28th, 2021 that concern your</p> <p>21 report.</p> <p>22 A. I think I mentioned I reviewed some of</p> <p>23 the loan documentation on the loans. I've seen</p> <p>24 the financial statements for Highland Capital</p> <p>25 Management. I've – those two I recall.</p>
<p style="text-align: right;">Page 80</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 Do you remember for what years the</p> <p>4 financial statements were for Highland?</p> <p>5 A. If I recall, they were 2014, I</p> <p>6 believe, through – it's either '14 or '15 through</p> <p>7 '19, I believe.</p> <p>8 Q. And reviewing these documents didn't</p> <p>9 cause you to amend or modify your opinions in any</p> <p>10 way, correct?</p> <p>11 A. No.</p> <p>12 Q. Okay. I'm just going to ask you a</p> <p>13 series of questions to see if you're familiar with</p> <p>14 any of the following categories of documents.</p> <p>15 You mentioned that you saw some loan</p> <p>16 documents.</p> <p>17 Do I have that right?</p> <p>18 A. Yes.</p> <p>19 Q. Would the loan documents that you have</p> <p>20 in mind be promissory notes?</p> <p>21 A. I'm not sure what the definition of a</p> <p>22 "promissory note" is.</p> <p>23 Q. Are you familiar with promissory notes</p> <p>24 generally?</p> <p>25 A. I'm familiar with notes, but I'm not</p>	<p style="text-align: right;">Page 81</p> <p>1 ALAN JOHNSON</p> <p>2 sure of the legal meaning of what a promissory</p> <p>3 note is.</p> <p>4 Q. I think you mentioned that certain of</p> <p>5 the loan documents that you saw referenced what</p> <p>6 I'll characterize as a roll-up of existing loans.</p> <p>7 Do I have that right?</p> <p>8 A. I saw that described, yes.</p> <p>9 Q. And was that – was there a schedule</p> <p>10 to the document entitled, I think, either</p> <p>11 Exhibit A or Schedule A that listed various loans,</p> <p>12 including the principal amount and the interest</p> <p>13 that was outstanding as of the date of the</p> <p>14 document?</p> <p>15 A. I've seen schedules like that, yes.</p> <p>16 Q. Okay.</p> <p>17 Other than – other than the documents</p> <p>18 with the schedules that – that you've just</p> <p>19 acknowledged seeing, do you recall seeing any</p> <p>20 other loan documents prior to today's deposition?</p> <p>21 A. If it's not on the list that we're</p> <p>22 looking at, I don't recall anything else.</p> <p>23 Q. Do you know where you got these</p> <p>24 documents – withdrawn.</p> <p>25 Who gave you these documents?</p>

<p style="text-align: right;">Page 82</p> <p>1 ALAN JOHNSON</p> <p>2 A. They're from the Stinson law firm.</p> <p>3 Q. And do you recall when the Stinson law</p> <p>4 firm gave you these documents?</p> <p>5 A. And "these documents" refer to prior</p> <p>6 to writing the report or recently?</p> <p>7 Q. I apologize. Great question.</p> <p>8 I'm only asking about the loan</p> <p>9 documents and the financial statements that you</p> <p>10 have testified to having received after the date</p> <p>11 of this report.</p> <p>12 A. I've received it from the law firm</p> <p>13 within the last week.</p> <p>14 Q. Did you – did you ask them for</p> <p>15 documents or did they give them to you of their</p> <p>16 own accord?</p> <p>17 A. I had asked them from documents prior</p> <p>18 to writing my report, and then I think we asked</p> <p>19 for documents getting ready for this deposition.</p> <p>20 Q. And what they gave you in response to</p> <p>21 your request were the loan documents with the</p> <p>22 schedule listing certain principal and interest</p> <p>23 due on the loans as well as, to the best of your</p> <p>24 recollection, financial statements for HCM, L.P.</p> <p>25 for around 2014 or '15 through around 2019. Is</p>	<p style="text-align: right;">Page 83</p> <p>1 ALAN JOHNSON</p> <p>2 that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 At no time since the report was signed</p> <p>6 by you back in May has Mr. Dondero or anyone</p> <p>7 acting on his behalf given you any documents that</p> <p>8 describe the terms or existence of any loan</p> <p>9 forgiveness agreement, correct?</p> <p>10 A. I had a conversation with Mr. Dondero</p> <p>11 about the loan forgiveness program at Next Bank,</p> <p>12 but I had that conversation with him.</p> <p>13 Q. But has anybody given you since</p> <p>14 May 28, 2021 any documents that reflect the terms</p> <p>15 or existence of the loan forgiveness program</p> <p>16 that's referred to in your expert report?</p> <p>17 A. No.</p> <p>18 Q. Did the Stinson firm give you</p> <p>19 Highland's audited financial statements for 2008,</p> <p>20 '9, '10, '11, '12, or '13?</p> <p>21 A. Now – now you're testing me, and I'm</p> <p>22 just not sure. They provided them to me, and I'm</p> <p>23 just not sure.</p> <p>24 Q. Okay.</p> <p>25 Are you aware that</p>
<p style="text-align: right;">Page 84</p> <p>1 ALAN JOHNSON</p> <p>2 PricewaterhouseCoopers was Highland's outside</p> <p>3 auditors?</p> <p>4 A. I remember seeing PwC, yes.</p> <p>5 Q. Are you aware that PwC gave a</p> <p>6 deposition in this case after the date you had</p> <p>7 authored your report?</p> <p>8 A. I was not aware of that.</p> <p>9 Q. So is it fair to say that you've never</p> <p>10 seen PricewaterhouseCoopers' deposition</p> <p>11 transcript?</p> <p>12 A. I have not.</p> <p>13 Q. And is it fair to say that you have no</p> <p>14 knowledge about what, if anything,</p> <p>15 PricewaterhouseCoopers testified to in this case?</p> <p>16 A. I do not know.</p> <p>17 Q. Have you ever heard of a Dugaboy</p> <p>18 Investment Trust?</p> <p>19 A. Dugaboy? I don't believe so.</p> <p>20 Q. So is it fair to say you have no</p> <p>21 knowledge as to whether or not the Dugaboy</p> <p>22 Investment Trust testified in this case?</p> <p>23 A. I have no knowledge.</p> <p>24 Q. So it's fair to say that you've never</p> <p>25 seen a deposition transcript relating to any</p>	<p style="text-align: right;">Page 85</p> <p>1 ALAN JOHNSON</p> <p>2 testimony given on behalf of the Dugaboy</p> <p>3 Investment Trust, correct?</p> <p>4 A. I have not.</p> <p>5 Q. Have you ever heard of Frank</p> <p>6 Waterhouse?</p> <p>7 A. I don't believe so.</p> <p>8 Q. I'll try and refresh your</p> <p>9 recollection.</p> <p>10 Do you know whether Mr. Waterhouse</p> <p>11 served as Highland Capital Management, L.P.'s</p> <p>12 chief financial officer for the five-plus years</p> <p>13 prior to the petition date?</p> <p>14 A. Now I think you've refreshed my</p> <p>15 memory. I think I've seen the name, yes.</p> <p>16 Q. Do you know if – have you ever seen a</p> <p>17 deposition transcript of any testimony</p> <p>18 Mr. Waterhouse has given in this case?</p> <p>19 A. I have not.</p> <p>20 Q. Do you know whether Mr. Dondero has</p> <p>21 testified in this case?</p> <p>22 A. I – I've seen some deposition</p> <p>23 testimony for Mr. Dondero.</p> <p>24 Q. And when did you see the deposition</p> <p>25 testimony?</p>

<p style="text-align: right;">Page 86</p> <p>1 ALAN JOHNSON</p> <p>2 A. Within the last week.</p> <p>3 Q. Do you know if he testified – do you</p> <p>4 know when the deposition was?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you recall – did you actually see</p> <p>7 a transcript?</p> <p>8 A. I saw the transcript, yes.</p> <p>9 Q. Did you see one transcript or more</p> <p>10 than one transcript?</p> <p>11 A. Just one.</p> <p>12 Q. And do you know if that deposition</p> <p>13 took place in May or did that deposition take</p> <p>14 place more recently?</p> <p>15 A. I – I don't know.</p> <p>16 Q. Were you given – were you provided a</p> <p>17 copy of the entire transcript?</p> <p>18 A. I received an excerpt – I'm not sure.</p> <p>19 I focused on an excerpt, but I'm not sure if I</p> <p>20 received the whole transcript.</p> <p>21 Q. And were you directed to that</p> <p>22 particular excerpt that you looked at?</p> <p>23 A. Yes.</p> <p>24 Q. And who directed you to that excerpt?</p> <p>25 A. The Stinson law firm.</p>	<p style="text-align: right;">Page 87</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And did the Stinson law firm direct</p> <p>3 you to any portion of the transcript other than</p> <p>4 that excerpt?</p> <p>5 A. No.</p> <p>6 Q. And how – how long was the excerpt?</p> <p>7 Was it a few lines or a few pages or –</p> <p>8 A. A few pages.</p> <p>9 Q. Okay.</p> <p>10 And can you recall generally what the</p> <p>11 excerpt was that was provided to you by the</p> <p>12 Stinson law firm?</p> <p>13 A. It revolved around the loans.</p> <p>14 Q. And do you remember the substance of</p> <p>15 the excerpt, like what about the loans were you</p> <p>16 being directed to review?</p> <p>17 A. It was Mr. Dondero's testimony around</p> <p>18 the constructing of these forgivable loans. It</p> <p>19 was – that was – that was the – those were the</p> <p>20 pages.</p> <p>21 Q. Do you recall the page numbers</p> <p>22 perhaps?</p> <p>23 A. Actually, I do. One was 143.</p> <p>24 Q. Okay. Any others?</p> <p>25 A. I read before that and after that, but</p>
<p style="text-align: right;">Page 88</p> <p>1 ALAN JOHNSON</p> <p>2 I think that was – that was – for some reason, I</p> <p>3 recall that number.</p> <p>4 Q. Have you received – withdrawn.</p> <p>5 Other than the loan documents and</p> <p>6 financial statements you've described as well as</p> <p>7 the excerpt from Mr. Dondero's deposition, have</p> <p>8 you received any information concerning</p> <p>9 Mr. Dondero's compensation that was produced by</p> <p>10 Highland after May 28, 2021?</p> <p>11 A. I recall there was a – an excel file</p> <p>12 that had some additional things on compensation.</p> <p>13 Yeah, I think there was an excel file that broke</p> <p>14 out, you know, different elements of compensation.</p> <p>15 Q. When did you receive that?</p> <p>16 A. Sometime in October.</p> <p>17 Q. Did you receive anything in October</p> <p>18 other than the Excel file that you've just</p> <p>19 described and the loan documents and financial</p> <p>20 statements and excerpt from Mr. Dondero's</p> <p>21 transcript?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Do you recall anything about the Excel</p> <p>24 file?</p> <p>25 A. It had different elements of pay. It</p>	<p style="text-align: right;">Page 89</p> <p>1 ALAN JOHNSON</p> <p>2 had some of the different legal entities.</p> <p>3 I think that – I think that's all I</p> <p>4 remember.</p> <p>5 Q. Did that Excel file cause you to</p> <p>6 change in any way any of the opinions that are set</p> <p>7 forth in your report?</p> <p>8 A. No.</p> <p>9 Q. Did Mr. Dondero's deposition</p> <p>10 transcript excerpt cause to you change, modify, or</p> <p>11 amend in any way any of the opinions set forth in</p> <p>12 your report?</p> <p>13 A. No.</p> <p>14 Q. Other than the Excel file, did you</p> <p>15 receive any other documents that Highland has</p> <p>16 produced in this matter since the date you</p> <p>17 executed your expert report on May 28, 2021?</p> <p>18 A. No.</p> <p>19 MR. MORRIS: If we can go to page 5 of</p> <p>20 the report, we still have it up on the</p> <p>21 screen here.</p> <p>22 Q. Do you see where it says, "Facts and</p> <p>23 Data Considered"?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 90</p> <p>1 ALAN JOHNSON</p> <p>2 In the first sentence, you wrote, "in</p> <p>3 preparing this report, I've considered certain</p> <p>4 documents provided to me, interviews with</p> <p>5 Mr. Dondero, and former Highland or affiliate</p> <p>6 employees."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. When did you interview Mr. Dondero?</p> <p>10 A. Probably early May, early May of this</p> <p>11 year.</p> <p>12 Q. Is that the only time you've</p> <p>13 communicated with him directly concerning this</p> <p>14 case?</p> <p>15 A. I think I mentioned earlier I talked</p> <p>16 to him about the Next Bank – in the last week</p> <p>17 about the Next Bank loans, and then I talked to</p> <p>18 him prior to this report.</p> <p>19 I think those are the only times.</p> <p>20 Q. And did you speak with him on the</p> <p>21 phone? Did you meet with him in person or some</p> <p>22 other form of communication?</p> <p>23 A. Didn't – it was not in person. It</p> <p>24 was either a phone call or Zoom. I don't recall.</p> <p>25 Q. Do you recall how many phone calls or</p>	<p style="text-align: right;">Page 91</p> <p>1 ALAN JOHNSON</p> <p>2 Zoom calls you had with Mr. Dondero for the</p> <p>3 purpose of interviewing him, as stated in the</p> <p>4 first sentence of the Facts and Data Considered?</p> <p>5 A. Prior to this report, I think I talked</p> <p>6 to him three times, I believe.</p> <p>7 Q. And was anybody – did anybody</p> <p>8 participate in those Zoom or telephone calls</p> <p>9 besides you and Mr. Dondero?</p> <p>10 A. There would have been someone from the</p> <p>11 Stinson law firm and likely my colleague,</p> <p>12 Mr. Perniciaro, would have been on the call as</p> <p>13 well.</p> <p>14 Q. Do you know approximately what the</p> <p>15 total time you spent speaking with Mr. Dondero was</p> <p>16 before you prepared this report?</p> <p>17 Was it an hour or three hours?</p> <p>18 A. Probably an hour and a half.</p> <p>19 Q. So about 90 minutes.</p> <p>20 Do you recall – did you ask to</p> <p>21 interview him or did the Stinson firm suggest that</p> <p>22 you should speak with him?</p> <p>23 A. I suggested talking to him.</p> <p>24 Q. Okay.</p> <p>25 Do you recall what he told you during</p>
<p style="text-align: right;">Page 92</p> <p>1 ALAN JOHNSON</p> <p>2 this interview?</p> <p>3 A. We talked about his duties,</p> <p>4 responsibilities, went into what he – what he was</p> <p>5 involved in going back in time to the current, his</p> <p>6 duties, how he ran the firm. So we spent a fair</p> <p>7 amount of time talking about that.</p> <p>8 Talked about the different – these</p> <p>9 loans and the purpose of the loans, his philosophy</p> <p>10 around the loans.</p> <p>11 I think those were the two broad –</p> <p>12 the two broad categories.</p> <p>13 Q. Did he describe for you in any way the</p> <p>14 agreement that was entered into in late 2018,</p> <p>15 early 2019 relating to the forgiveness of the</p> <p>16 loans?</p> <p>17 A. Yes. Yes, he did.</p> <p>18 Q. What did he tell you about that?</p> <p>19 A. He said that the – the structure to</p> <p>20 reward him for a successful transaction with one</p> <p>21 of these three portfolio investments, that was the</p> <p>22 purpose, that loans had been used in the company</p> <p>23 in the past, that the loans were – had always</p> <p>24 intended to be forgiven, and this was simply</p> <p>25 codifying and structured the intent of the loans</p>	<p style="text-align: right;">Page 93</p> <p>1 ALAN JOHNSON</p> <p>2 all along.</p> <p>3 Q. Did he identify who the decision maker</p> <p>4 was who acted on behalf of the company?</p> <p>5 A. He – I don't believe that came up. I</p> <p>6 don't recall hearing that.</p> <p>7 Q. Did you ask him any questions that</p> <p>8 you – your gut told you he wasn't able to answer</p> <p>9 completely?</p> <p>10 A. No. I thought he was candid. I</p> <p>11 thought he was straightforward. I didn't – the</p> <p>12 questioning that I had with him, I didn't find –</p> <p>13 he answered the questions I had about both his</p> <p>14 role and the – how these loans were intended to</p> <p>15 operate.</p> <p>16 Q. Did he tell you that under the</p> <p>17 agreement he entered into with the decision maker,</p> <p>18 the loans would be forgiven if the assets were</p> <p>19 sold not by him but by a third party?</p> <p>20 A. I don't – I don't recall that, no.</p> <p>21 Q. It doesn't say that in your report,</p> <p>22 does it?</p> <p>23 A. It does not.</p> <p>24 Q. And you don't recall him specifically</p> <p>25 telling you that one of the terms of the agreement</p>

<p style="text-align: right;">Page 94</p> <p>1 ALAN JOHNSON</p> <p>2 was that all of the loans subject to the agreement</p> <p>3 would be forgiven if any of the three assets were</p> <p>4 sold by a third party. Is that fair?</p> <p>5 A. We didn't get into that, no.</p> <p>6 Q. And he didn't tell you that, correct?</p> <p>7 A. No.</p> <p>8 Q. Do your opinions rely on anything that</p> <p>9 Mr. Dondero told you?</p> <p>10 A. Certainly, the – his role was in –</p> <p>11 my opinion on what his role was, which formed the</p> <p>12 compensation thing, is influenced by what he said</p> <p>13 about this role. So yes, it impacted that, you</p> <p>14 know, part of the report.</p> <p>15 Q. Okay.</p> <p>16 So other than his role and his duties</p> <p>17 and responsibilities, is there anything else that</p> <p>18 Mr. Dondero told you during the interview that you</p> <p>19 have relied upon in formulating your opinions?</p> <p>20 A. I don't believe so.</p> <p>21 Q. How many former Highland or affiliate</p> <p>22 employees did you interview?</p> <p>23 A. I interviewed four.</p> <p>24 Q. Do you recall the names of any of</p> <p>25 them?</p>	<p style="text-align: right;">Page 95</p> <p>1 ALAN JOHNSON</p> <p>2 A. Adkins, Hurley, Lawlor, and Cote.</p> <p>3 Q. When did you interview those</p> <p>4 individuals?</p> <p>5 A. Probably early May of this year.</p> <p>6 Q. Do you have any notes from those</p> <p>7 interviews?</p> <p>8 A. I do not.</p> <p>9 Q. Do you know if your colleague has any</p> <p>10 notes from those interviews?</p> <p>11 A. I don't think so.</p> <p>12 Q. Do you know if there's any written</p> <p>13 record at all of the interviews you conducted with</p> <p>14 those former Highland or affiliate employees?</p> <p>15 A. I don't believe so.</p> <p>16 Q. Did you speak to them all at one time</p> <p>17 or did you speak to them individually?</p> <p>18 A. Individually over a few days.</p> <p>19 Q. Let's take them one at a time.</p> <p>20 Mr. Adkins, do you recall the</p> <p>21 substance of what Mr. Adkins told you?</p> <p>22 A. The substance of the four interviews</p> <p>23 were very similar. They described his role. They</p> <p>24 described their experiences with loans. So the –</p> <p>25 the comments from the four were very similar.</p>
<p style="text-align: right;">Page 96</p> <p>1 ALAN JOHNSON</p> <p>2 Q. So I apologize, I wasn't writing fast</p> <p>3 enough.</p> <p>4 A. I'm sorry –</p> <p>5 Q. I have Adkins –</p> <p>6 A. – I apologize.</p> <p>7 Q. I have Mr. Adkins, Mr. Lawlor, and who</p> <p>8 were the other two?</p> <p>9 A. Mr. Hurley and Mr. Cote.</p> <p>10 I believe those are the names.</p> <p>11 Q. Did any of them tell you – withdrawn.</p> <p>12 Did all of them tell you that they had</p> <p>13 obtained loans from Highland which were</p> <p>14 subsequently forgiven in whole or in part?</p> <p>15 A. I believe so.</p> <p>16 Q. Did any of them tell you how much</p> <p>17 money was forgiven?</p> <p>18 A. We talked about that, yes. They</p> <p>19 described the amounts.</p> <p>20 Q. Okay.</p> <p>21 What amounts do you recall being</p> <p>22 described as having been forgiven by Highland?</p> <p>23 A. It was in the hundreds of thousands.</p> <p>24 Q. Did any of them tell you that they had</p> <p>25 ever had a loan from Highland that was forgiven in</p>	<p style="text-align: right;">Page 97</p> <p>1 ALAN JOHNSON</p> <p>2 an amount equal to or more than \$500,000?</p> <p>3 A. They were a little sketchy on the</p> <p>4 exact amounts, but my impression, they ranged</p> <p>5 from, say, a quarter million to maybe \$500,000 or</p> <p>6 a little more. That – that was their</p> <p>7 recollections.</p> <p>8 Q. Did – did you learn from these four</p> <p>9 interviews when the last of these loans was</p> <p>10 forgiven?</p> <p>11 A. Probably 8 or 10 years ago.</p> <p>12 Q. Did anybody – withdrawn.</p> <p>13 Did any of the four of them inform you</p> <p>14 that Highland had forgiven any loans to any</p> <p>15 officer or employee in the last 8 to 10 years?</p> <p>16 A. I don't recall them saying that, no.</p> <p>17 Q. Did you – do you recall asking them</p> <p>18 when was the last loan that Highland ever forgave?</p> <p>19 A. I don't believe I asked that question.</p> <p>20 Q. And as you sit here right now, you</p> <p>21 have no knowledge as to when the last loan that</p> <p>22 Highland gave that was forgiven in whole or in</p> <p>23 part, correct?</p> <p>24 A. I don't have that knowledge, no.</p> <p>25 Q. Other than the loans that were</p>

<p style="text-align: right;">Page 98</p> <p>1 ALAN JOHNSON</p> <p>2 described for you by these four individuals, can</p> <p>3 you identify any other loan that Highland has ever</p> <p>4 forgiven?</p> <p>5 A. I don't have any other knowledge, no.</p> <p>6 Q. Did any of these four individuals give</p> <p>7 you any documents relating to any aspect of your</p> <p>8 report?</p> <p>9 A. No.</p> <p>10 Q. Did any of them give you any documents</p> <p>11 that would substantiate the information that they</p> <p>12 provided to you during the interview?</p> <p>13 A. They didn't provide any documents, no.</p> <p>14 Q. Did you ask them if they had any</p> <p>15 documents to substantiate what you were told?</p> <p>16 A. Yes. Yes, I did.</p> <p>17 Q. And they told you that they didn't</p> <p>18 have any.</p> <p>19 Do I have that right?</p> <p>20 A. Yes, that's right.</p> <p>21 Q. I think you testified that you do not</p> <p>22 know who the decision maker was who entered into</p> <p>23 the agreement with Mr. Dondero in late 2018 or</p> <p>24 early 2019 with respect to the forgiveness of the</p> <p>25 loans.</p>	<p style="text-align: right;">Page 99</p> <p>1 ALAN JOHNSON</p> <p>2 Do I have that right?</p> <p>3 A. When I interviewed Mr. Dondero, I did</p> <p>4 not – that didn't come up.</p> <p>5 Q. So I'm going to represent to you that</p> <p>6 it's in the pleading that Mr. Dondero entered into</p> <p>7 the agreement with his sister Nancy, who was the</p> <p>8 trustee of the Dugaboy Investment Trust who</p> <p>9 purportedly holds a majority of Highland's</p> <p>10 interests.</p> <p>11 Is that new information for you?</p> <p>12 A. Yes, it is.</p> <p>13 Q. Have you ever heard of Nancy Dondero</p> <p>14 before?</p> <p>15 A. I had heard her name just because</p> <p>16 there's attorneys representing her. That's all</p> <p>17 I – that's all I know.</p> <p>18 Q. You weren't aware until I just told</p> <p>19 you that she's the person who entered into the</p> <p>20 agreement with Mr. Dondero concerning --</p> <p>21 withdrawn.</p> <p>22 You didn't know until I just told you</p> <p>23 that Nancy Dondero, as the trustee for the Dugaboy</p> <p>24 Investment Trust, as the holder of a majority of</p> <p>25 interests of Highland, is the person who entered</p>
<p style="text-align: right;">Page 100</p> <p>1 ALAN JOHNSON</p> <p>2 into the agreement with Mr. Dondero?</p> <p>3 A. If your assertion is true, then I --</p> <p>4 then I -- I did not know that.</p> <p>5 Q. Okay.</p> <p>6 And is it fair to say then that you</p> <p>7 don't know that she was deposed in this case?</p> <p>8 A. I don't believe I knew that, no.</p> <p>9 Q. And is it fair to say that you've</p> <p>10 never seen her deposition transcript, if one</p> <p>11 exists?</p> <p>12 A. I have not seen it.</p> <p>13 Q. Did you ever ask to speak with the</p> <p>14 decision maker?</p> <p>15 A. No, I did not.</p> <p>16 Q. And is that because -- why -- why</p> <p>17 didn't you ask to speak with the decision maker?</p> <p>18 A. My assignment here was to talk about</p> <p>19 practice, you know, in the industry of using loans</p> <p>20 and other things. It was not to -- I was not</p> <p>21 asked to assess these particular loans.</p> <p>22 So if the assignment had been to -- to</p> <p>23 assess the reasonableness or fairness, then I</p> <p>24 certainly would have done other things, but that</p> <p>25 was not the assignment here.</p>	<p style="text-align: right;">Page 101</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 And can you -- can you be as specific</p> <p>4 as you can as to what the assignment was?</p> <p>5 A. Well, in addition to coming up with a</p> <p>6 market compensation, in the report, I said the</p> <p>7 assignment was to talk about the practice and --</p> <p>8 of using loans and forgivable loans and, you know,</p> <p>9 financial services firms, but it was not to assess</p> <p>10 the reasonableness of -- the specific</p> <p>11 reasonableness of this particular transaction.</p> <p>12 Q. Okay.</p> <p>13 And you're not offering any opinion as</p> <p>14 to the reasonableness of the agreement that</p> <p>15 Mr. Dondero entered into with the Dugaboy</p> <p>16 Investment Trust concerning the forgiveness of any</p> <p>17 loans. Is that fair?</p> <p>18 A. I'm not -- I'm not putting that forth,</p> <p>19 no.</p> <p>20 Q. And you're not offering any opinions</p> <p>21 as to whether or not such an agreement exists,</p> <p>22 correct?</p> <p>23 A. No, I am not.</p> <p>24 Q. You're not offering any opinions as to</p> <p>25 whether or not it would have been appropriate for</p>

<p style="text-align: right;">Page 102</p> <p>1 ALAN JOHNSON</p> <p>2 the company to enter into a loan forgiveness</p> <p>3 program under the facts and circumstances that</p> <p>4 existed at the time, correct?</p> <p>5 A. That's right.</p> <p>6 Q. And you're not offering any opinion</p> <p>7 that the loan forgiveness program that Mr. Dondero</p> <p>8 entered into is consistent with industry</p> <p>9 standards, are you?</p> <p>10 A. No, I'm not.</p> <p>11 Q. Okay.</p> <p>12 What you are doing is you're -- you're</p> <p>13 making an assessment of what comparable executives</p> <p>14 earn in the industry. Is that fair?</p> <p>15 A. That's part of it, and then the</p> <p>16 second, as I mentioned, just the use of such loans</p> <p>17 within the industry and, you know, within</p> <p>18 Highland.</p> <p>19 Q. Okay.</p> <p>20 But you're not offering any opinion as</p> <p>21 to whether or not -- withdrawn.</p> <p>22 We'll keep going.</p> <p>23 You have no information about what</p> <p>24 diligence, if any, the decision maker conducted</p> <p>25 prior to entering into the agreement with</p>	<p style="text-align: right;">Page 103</p> <p>1 ALAN JOHNSON</p> <p>2 Mr. Dondero in late 2018 or early 2019, correct?</p> <p>3 A. I do not.</p> <p>4 Q. And you're not offering any opinion as</p> <p>5 to whether or not the diligence that was done by</p> <p>6 that person was sufficient, correct?</p> <p>7 A. I'm not making that opinion, no.</p> <p>8 Q. And you don't have any information</p> <p>9 about the skill set or the experience of the</p> <p>10 decision maker, fair?</p> <p>11 A. I do not.</p> <p>12 Q. And you're not offering any opinion as</p> <p>13 to the skill set or the experience of the decision</p> <p>14 maker who entered into this alleged agreement on</p> <p>15 behalf of Highland, correct?</p> <p>16 A. I am not.</p> <p>17 MR. MORRIS: Let's go to page 3 of</p> <p>18 your report, please.</p> <p>19 So this is the introduction, right?</p> <p>20 So this is the very first substantive page</p> <p>21 of the report, is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 If you take a look near the end of the</p> <p>25 first paragraph, there's a sentence that reads,</p>
<p style="text-align: right;">Page 104</p> <p>1 ALAN JOHNSON</p> <p>2 "Throughout this period, he received loans in lieu</p> <p>3 of additional current compensation."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Have I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. Why did you include that sentence in</p> <p>9 your report?</p> <p>10 A. I -- Mr. Dondero described these loans</p> <p>11 as -- as a practice of, in lieu of paying</p> <p>12 compensation, these loans were -- these loans were</p> <p>13 made.</p> <p>14 Q. What information were you given that</p> <p>15 you relied upon in order to make the statement</p> <p>16 that I just read into the record?</p> <p>17 A. Well, I interviewed Mr. Dondero, and</p> <p>18 then I talked to the four prior Highland</p> <p>19 executives.</p> <p>20 Q. Now, you told me that the four prior</p> <p>21 Highland executives described for you certain</p> <p>22 loans that they had received that had been</p> <p>23 forgiven in whole or in part by Highland.</p> <p>24 Do I have that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 105</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Did any of them give you any</p> <p>3 information to support the statement that</p> <p>4 throughout this period Mr. Dondero received loans</p> <p>5 in lieu of additional current compensation or is</p> <p>6 that information that came exclusively from</p> <p>7 Mr. Dondero?</p> <p>8 A. They described a practice at the</p> <p>9 company of using these loans as a -- a form of</p> <p>10 deferred pay, so they described it -- it was not</p> <p>11 only them, but it applied to others, and then when</p> <p>12 I interviewed Mr. Dondero, his testimony -- his</p> <p>13 comments to me were consistent with that.</p> <p>14 Q. Okay.</p> <p>15 Did any of the four former employees</p> <p>16 specifically tell you that Mr. Dondero had ever</p> <p>17 received loans in lieu of additional current</p> <p>18 compensation or did they just describe a general</p> <p>19 practice that applied to others?</p> <p>20 A. I think they were describing the</p> <p>21 general practice.</p> <p>22 Q. Okay.</p> <p>23 So did anybody other than Mr. Dondero</p> <p>24 tell you that "Throughout this period, he received</p> <p>25 loans in lieu of additional current compensation"?</p>

<p style="text-align: right;">Page 106</p> <p>1 ALAN JOHNSON</p> <p>2 A. I don't believe so.</p> <p>3 Q. Do you have any information at all to</p> <p>4 support the statement that throughout this period,</p> <p>5 Mr. Dondero received loans in lieu of additional</p> <p>6 current compensation other than what Mr. Dondero</p> <p>7 specifically told you?</p> <p>8 A. For him specifically, it's relying on</p> <p>9 what Mr. Dondero said.</p> <p>10 Q. Okay.</p> <p>11 You haven't seen any documents that</p> <p>12 support that statement, do you – did you?</p> <p>13 A. I have not – I have not seen any</p> <p>14 documents, no.</p> <p>15 Q. Would your opinions change if you</p> <p>16 learned that for at least the 11 years prior to</p> <p>17 the bankruptcy filing, Mr. Dondero never received</p> <p>18 a single loan in lieu of compensation?</p> <p>19 A. I'm – I don't understand the</p> <p>20 question. I'm sorry.</p> <p>21 Q. This is the first paragraph of your</p> <p>22 expert report that we're looking at, right?</p> <p>23 What if I told you that the sentence</p> <p>24 "Throughout this period, he received loans in lieu</p> <p>25 of additional current compensation" was false at</p>	<p style="text-align: right;">Page 107</p> <p>1 ALAN JOHNSON</p> <p>2 least going back as far as 2008, would you want to</p> <p>3 amend your report in any way?</p> <p>4 A. Well, then the sentence wouldn't be</p> <p>5 true if the loans weren't a form of deferred</p> <p>6 compensation.</p> <p>7 So if the facts changed, then the</p> <p>8 report would need to be changed.</p> <p>9 Q. So let me state it a different way.</p> <p>10 Would your opinions change if you</p> <p>11 assume that in the 11 years prior to the</p> <p>12 bankruptcy filing Highland never forgave any loan</p> <p>13 in whole or in part that it had extended to</p> <p>14 Mr. Dondero.</p> <p>15 MR. AIGEN: Objection, form.</p> <p>16 A. No, I don't – I don't think that – I</p> <p>17 don't think that sentence would change that, no.</p> <p>18 Q. Okay.</p> <p>19 I'm not talking about the sentence</p> <p>20 itself, but if I could prove to you today that</p> <p>21 there's no written record of Highland ever</p> <p>22 forgiving a loan to Mr. Dondero, would that have</p> <p>23 an impact at all on your opinions?</p> <p>24 A. I don't think the written record would</p> <p>25 change my opinion. I think he – he had stated to</p>
<p style="text-align: right;">Page 108</p> <p>1 ALAN JOHNSON</p> <p>2 me that the – the – that a lot of these loans</p> <p>3 were made as a form of deferred compensation with</p> <p>4 the intent to be forgiven at some point in the</p> <p>5 future.</p> <p>6 Q. All right. I'm going to ask you to</p> <p>7 assume the following facts: For the 11 years</p> <p>8 prior to the petition date, other than the three</p> <p>9 loans that were outstanding as of the petition</p> <p>10 date, Mr. Dondero received three loans from</p> <p>11 Highland. Okay?</p> <p>12 So that's assumption No. 1, that</p> <p>13 between 2008 and 2019, Mr. Dondero received three</p> <p>14 loans from Highland.</p> <p>15 Assumption No. 2, that Mr. Dondero</p> <p>16 paid Highland all principal and interest due under</p> <p>17 all three loans.</p> <p>18 Assumption No. 3: The last of those</p> <p>19 three loans was taken out in January 2018 and was</p> <p>20 paid back in full plus interest in December 2019.</p> <p>21 The next assumption: Mr. Dondero has</p> <p>22 testified that any loan that Highland actually</p> <p>23 forgave would be described in Highland's audited</p> <p>24 financial statements and that in those financial</p> <p>25 statements going back to 2008, there's no</p>	<p style="text-align: right;">Page 109</p> <p>1 ALAN JOHNSON</p> <p>2 description of any loan ever being given to</p> <p>3 Mr. Dondero that was forgiven in whole or in part.</p> <p>4 Do you remember all those assumptions?</p> <p>5 A. I believe so.</p> <p>6 Q. Okay.</p> <p>7 If you assume that each of those</p> <p>8 assumptions is, in fact, true, would you have any</p> <p>9 basis at all to conclude that Mr. Dondero received</p> <p>10 loans in lieu of additional compensation in the</p> <p>11 decade before Highland filed for bankruptcy?</p> <p>12 MR. AIGEN: Objection, form.</p> <p>13 A. Well, in trying to answer the</p> <p>14 question, the – I think a lot of the loans here,</p> <p>15 as I recall, were for different entities and</p> <p>16 different, you know, amounts and situations.</p> <p>17 So if – if the – either hypothetical</p> <p>18 or the assumptions we're making here, that the</p> <p>19 loans eventually were not forgiven, I don't know</p> <p>20 if the – they were intended to be forgiven and</p> <p>21 just weren't or we're talking about other loans</p> <p>22 that are outside the three that you – that you</p> <p>23 mentioned.</p> <p>24 Q. Is it fair to say that neither</p> <p>25 Mr. Dondero nor the Stinson firm ever shared with</p>

<p style="text-align: right;">Page 110</p> <p>1 ALAN JOHNSON</p> <p>2 you the fact that Mr. Dondero had received three</p> <p>3 loans that are not the subject of this litigation?</p> <p>4 A. I was aware that I believe there were</p> <p>5 loans that were not subject to litigation that had</p> <p>6 been paid off or other types of things. I was</p> <p>7 aware of that.</p> <p>8 Q. How did you learn that?</p> <p>9 A. I think I've seen materials that</p> <p>10 listed loans that showed principals paid off and</p> <p>11 so forth, but I think I've been – I know they</p> <p>12 were loans – I believe I recall that they were</p> <p>13 loans outside of what's being disputed.</p> <p>14 Q. I'm sorry.</p> <p>15 A. No, I was done. I'm sorry.</p> <p>16 Q. Did you ever discuss that with</p> <p>17 Mr. Dondero?</p> <p>18 A. I did not.</p> <p>19 Q. Do you have any knowledge as to why he</p> <p>20 paid back some loans and others were supposed to</p> <p>21 be treated as compensation?</p> <p>22 A. I do not know.</p> <p>23 Q. Is there any reason you didn't</p> <p>24 disclose in your report that Mr. Dondero had</p> <p>25 received loans that he had paid back?</p>	<p style="text-align: right;">Page 111</p> <p>1 ALAN JOHNSON</p> <p>2 A. I didn't think it was relevant.</p> <p>3 Q. Did you ever ask Mr. Dondero how he</p> <p>4 reconciled the payment of principal and interest</p> <p>5 due on the notes prior to the petition date but</p> <p>6 his treatment of the notes pursuant to the</p> <p>7 agreement that's been described to you?</p> <p>8 A. I did not.</p> <p>9 Q. Are you curious at all as to why he</p> <p>10 paid off some of the notes but not others?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. Yeah, I'm probably curious. It's</p> <p>13 convoluted enough, I'm a curious person, so yeah,</p> <p>14 I'd probably be curious to understand all the ins</p> <p>15 and outs.</p> <p>16 Q. Did it cause you any discomfort that</p> <p>17 Mr. Dondero paid certain loans off in full but the</p> <p>18 only loans that he didn't pay off in full were the</p> <p>19 loans that existed as of the petition date?</p> <p>20 MR. AIGEN: Objection, form.</p> <p>21 A. Well, isn't that by definition true?</p> <p>22 If they've already been paid off, they couldn't</p> <p>23 exist as of the petition date, right?</p> <p>24 Isn't that just – am I missing</p> <p>25 something?</p>
<p style="text-align: right;">Page 112</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Well, you told me that, from the</p> <p>3 review of the documents, you understood that there</p> <p>4 were loans that Mr. Dondero had taken out that had</p> <p>5 been paid off in full. Is that right?</p> <p>6 A. Yes, I recall that I was aware that</p> <p>7 there were loans that had been paid off. I was</p> <p>8 aware of that.</p> <p>9 Q. And so paying back the loans is</p> <p>10 certainly not – would you agree with me that if</p> <p>11 he – that if he was paying back the loans, then</p> <p>12 he didn't receive the loans in lieu of additional</p> <p>13 current compensation?</p> <p>14 A. Yeah, when I wrote the report, maybe I</p> <p>15 should have parsed out that, but I think I was</p> <p>16 focusing on that there were loans that were</p> <p>17 deferred compensation.</p> <p>18 I guess what we're saying is there may</p> <p>19 have been other loans that were not deferred</p> <p>20 compensation. They were more run-of-the-mill</p> <p>21 obligations, so if that's the point we're making,</p> <p>22 but I think what I was trying to address here,</p> <p>23 that there were loans made that were intended to</p> <p>24 be deferred compensation.</p> <p>25 Q. And the only basis that you have for</p>	<p style="text-align: right;">Page 113</p> <p>1 ALAN JOHNSON</p> <p>2 that statement is what Mr. Dondero told you,</p> <p>3 correct?</p> <p>4 A. For himself, that is true, and then</p> <p>5 the other four executives provided a little bit of</p> <p>6 history on the use of such loans within the</p> <p>7 company.</p> <p>8 Q. And it didn't concern you at all that</p> <p>9 certain loans were paid back and that certain</p> <p>10 loans, according to Mr. Dondero, are subject to</p> <p>11 this agreement that he entered into with the</p> <p>12 company?</p> <p>13 A. I think that would be something that</p> <p>14 if – certainly, I would have asked him about, but</p> <p>15 that certainly would be something to – to discuss</p> <p>16 with him, yes.</p> <p>17 Q. But you haven't done that as of today,</p> <p>18 correct?</p> <p>19 A. I have not.</p> <p>20 Q. And nobody has explained to you why he</p> <p>21 paid back certain loans but certain other loans</p> <p>22 were supposed to be provided in lieu of additional</p> <p>23 current compensation, right?</p> <p>24 A. That's right.</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 114</p> <p>1 ALAN JOHNSON</p> <p>2 The next sentence in this paragraph</p> <p>3 says – and I just want to make sure that I'm</p> <p>4 quoting this correctly – "Consistent with company</p> <p>5 practice, the loans were considered a form of</p> <p>6 deferred compensation that could be realized over</p> <p>7 time as the loans were forgiven and the income</p> <p>8 recognized by the individuals."</p> <p>9 Have I read that correctly?</p> <p>10 A. Yes.</p> <p>11 Q. Why did you include that sentence in</p> <p>12 your report?</p> <p>13 A. Well, from talking to the four former</p> <p>14 executives and himself, he described a company</p> <p>15 practice of having using loans as deferred</p> <p>16 compensation. In his words, it was called</p> <p>17 "delayed gratification."</p> <p>18 So you had these loans that were</p> <p>19 intended to provide capital to invest in the</p> <p>20 business, and they would eventually be forgiven</p> <p>21 and then the income would be recognized by the</p> <p>22 individual.</p> <p>23 So the four of them and himself had</p> <p>24 described a company practice of using these loans</p> <p>25 to – you know, as a form of deferred</p>	<p style="text-align: right;">Page 115</p> <p>1 ALAN JOHNSON</p> <p>2 compensation.</p> <p>3 Q. And that practice is very important to</p> <p>4 your opinions, right?</p> <p>5 A. Well, it – it – as I said earlier,</p> <p>6 my opinion is about the use of loans in private</p> <p>7 financial services companies and what his market</p> <p>8 value, his compensation, would be.</p> <p>9 Q. But actually, the practice that was</p> <p>10 described to you by Mr. Dondero and these four</p> <p>11 former employees, you relied upon to determine</p> <p>12 that Highland had a practice and that the</p> <p>13 forgiveness of the loans in this instance would be</p> <p>14 consistent with that practice. Is that right?</p> <p>15 A. That's right.</p> <p>16 MR. MORRIS: Let's turn to page 16 of</p> <p>17 the report.</p> <p>18 Q. This is your conclusion, right?</p> <p>19 A. Yes.</p> <p>20 Q. And in the middle, it says,</p> <p>21 "Additionally, it is my opinion that the loans</p> <p>22 provided to Mr. Dondero should be considered</p> <p>23 potential deferred compensation as they were</p> <p>24 similar to loans given to other professionals at</p> <p>25 the firm."</p>
<p style="text-align: right;">Page 116</p> <p>1 ALAN JOHNSON</p> <p>2 Have I read that correctly?</p> <p>3 A. Yes.</p> <p>4 Q. And is the information that supports</p> <p>5 your opinion in that sentence based solely on what</p> <p>6 was told to you by Mr. Dondero and the four</p> <p>7 individuals?</p> <p>8 A. Yes.</p> <p>9 Q. You have no documents that support</p> <p>10 that sentence. Is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And I assume, as a dutiful expert, you</p> <p>13 asked for any documentation that might concern or</p> <p>14 relate to the prior practice. Is that right?</p> <p>15 A. That's right.</p> <p>16 Q. Just looking at the sentence itself,</p> <p>17 what do you mean by the loans being "similar to</p> <p>18 loans given to other professionals at the firm"?</p> <p>19 A. Just that they would be forgiven. I</p> <p>20 mean that deferred compensation at some point</p> <p>21 would be – would be forgiven.</p> <p>22 Q. They're certainly not similar in</p> <p>23 amount. Is that fair?</p> <p>24 A. No. They're much larger.</p> <p>25 Q. In fact, I think you testified that</p>	<p style="text-align: right;">Page 117</p> <p>1 ALAN JOHNSON</p> <p>2 the largest loan you have been informed has ever</p> <p>3 been forgiven was \$500,000 or thereabouts.</p> <p>4 Do I have that right?</p> <p>5 A. That's what I'm aware of, yes.</p> <p>6 Q. And Mr. Dondero has told you that</p> <p>7 there's 40 to \$50 million in loans that he</p> <p>8 contends are the subject of an agreement?</p> <p>9 A. I don't know if he told me the 40 to</p> <p>10 50 million, but I think I've seen that in various</p> <p>11 spreadsheets or numbers. That's the number I</p> <p>12 believe – at least that I recall that's in</p> <p>13 dispute.</p> <p>14 Q. So is it fair to say that the</p> <p>15 aggregate value of the loans that are the subject</p> <p>16 to the agreement that Mr. Dondero described for</p> <p>17 you concern loans that are 80 to 100 times larger</p> <p>18 than the largest loan you have been told has ever</p> <p>19 been forgiven by Highland?</p> <p>20 A. It is much – it is much large than</p> <p>21 any loan I'm familiar with, yes.</p> <p>22 Q. Did anybody ever tell you that</p> <p>23 Highland had ever forgiven a loan made to a</p> <p>24 corporate affiliate?</p> <p>25 A. That, I'm not aware of, no.</p>

<p style="text-align: right;">Page 118</p> <p>1 ALAN JOHNSON</p> <p>2 Q. So there's nothing similar about the</p> <p>3 loans that were given to the corporate affiliates</p> <p>4 as compared to the loans that were forgiven for</p> <p>5 the four individuals you spoke with. Is that</p> <p>6 correct?</p> <p>7 MR. AIGEN: Objection, form.</p> <p>8 MR. MORRIS: Withdrawn. That's a fair</p> <p>9 objection.</p> <p>10 Q. The four individuals that you spoke</p> <p>11 with, they described for you loans that had been</p> <p>12 given to individuals. Is that right?</p> <p>13 A. Yes.</p> <p>14 Q. But the loan documents that you saw</p> <p>15 that had those schedules of loans that were being</p> <p>16 rolled up, all of those loans related to corporate</p> <p>17 entities. Isn't that right?</p> <p>18 A. No. I think I mentioned before, I</p> <p>19 didn't really focus on that. I looked at the</p> <p>20 loans themselves. So I did not actually focus on</p> <p>21 the corporate entities in my perusal of those</p> <p>22 documents.</p> <p>23 Q. Would there be any difference in your</p> <p>24 expert opinion as to whether or not the loan was</p> <p>25 given to an individual or given to a corporate</p>	<p style="text-align: right;">Page 119</p> <p>1 ALAN JOHNSON</p> <p>2 entity?</p> <p>3 A. Usually it would, but in these closely</p> <p>4 held corporations, often they're synonymous, so it</p> <p>5 really would depend on the circumstances.</p> <p>6 Q. Let's -- let's spend some time looking</p> <p>7 at the documentation that we have that's been</p> <p>8 produced in this case concerning this company</p> <p>9 practice.</p> <p>10 MR. MORRIS: And so I'd like to put up</p> <p>11 on the screen what's been marked as --</p> <p>12 premarked as Exhibit 63, which is Highland's</p> <p>13 2008 audited financial statements.</p> <p>14 (Exhibit 63, Highland's 2008 audited</p> <p>15 financial statements, was marked for</p> <p>16 identification at this time.)</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. And I'd like you, as we go through</p> <p>19 this exercise, Mr. Johnson, to take notes of all</p> <p>20 of the loans that we're going to discuss. There</p> <p>21 won't be many, but do you have a pen and a piece</p> <p>22 of paper with you?</p> <p>23 A. I do.</p> <p>24 Q. Yeah, can I trouble you to just write</p> <p>25 down, you know, "2008 financial statements," and</p>
<p style="text-align: right;">Page 120</p> <p>1 ALAN JOHNSON</p> <p>2 we're just going to do this for every year through</p> <p>3 2018, so you can have a full understanding of the</p> <p>4 loans that Highland included in its audited</p> <p>5 financial statements.</p> <p>6 I assume that you did not rely on this</p> <p>7 document for your opinions because you didn't have</p> <p>8 it at the time that you prepared your report;</p> <p>9 correct?</p> <p>10 A. That's right.</p> <p>11 Q. Okay.</p> <p>12 MR. MORRIS: And if we could turn to</p> <p>13 page 38, please.</p> <p>14 I'm sorry, not PDF 38. I'm referring</p> <p>15 to the document, No. 38. It shouldn't be</p> <p>16 too far.</p> <p>17 This is going to be a little painful</p> <p>18 on the Zoom, Mr. Johnson. I ask for your</p> <p>19 patience.</p> <p>20 All right. Stop right there.</p> <p>21 Q. Do you see that this portion of the</p> <p>22 Highland's 2008 audited financial statements has a</p> <p>23 section called "Notes to Affiliates"?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 121</p> <p>1 ALAN JOHNSON</p> <p>2 And in paragraph 1, it says that the</p> <p>3 partnership issued a promissory note of \$400,000</p> <p>4 to an employee.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And at the end of the paragraph, it</p> <p>8 says that that promissory note was forgiven.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. So we can write down that in 2008,</p> <p>12 Highland forgave a promissory note to an employee</p> <p>13 in the amount of \$400,000.</p> <p>14 A. Okay.</p> <p>15 Q. The next paragraph, there's a</p> <p>16 reference to an August 1 promissory note in the</p> <p>17 amount of \$500,000.</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And at the end of the year, that</p> <p>21 promissory note was still outstanding.</p> <p>22 Do you see that?</p> <p>23 A. Okay.</p> <p>24 Q. So No. 1 is 7/31/06, \$400,000</p> <p>25 forgiven.</p>

<p>Page 122</p> <p>1 ALAN JOHNSON</p> <p>2 No. 2 is 8/1/08, \$500,000 outstanding,</p> <p>3 right?</p> <p>4 No. 3, do you see there's a reference</p> <p>5 to two loans that were made in 2 – on May 21,</p> <p>6 2007, in the amount of a million dollars each?</p> <p>7 A. Okay.</p> <p>8 Q. And if you read further, it says that</p> <p>9 during 2008, 30 percent of the outstanding</p> <p>10 principal was owed – was forgiven, leaving</p> <p>11 \$700,000 due and paying.</p> <p>12 So there's two loans that were</p> <p>13 forgiven in the amount of \$300,000 each.</p> <p>14 Do I have that right?</p> <p>15 A. Okay.</p> <p>16 Q. Then, in the next paragraph, we've got</p> <p>17 August 20th, 2008, and there's \$330,000 loan which</p> <p>18 is all outstanding at year end.</p> <p>19 Do I have that right?</p> <p>20 A. Okay.</p> <p>21 Q. And the next paragraph, August 1</p> <p>22 there's a \$500,000 loan that was given to an</p> <p>23 employee that was all outstanding at year end.</p> <p>24 Do I have that right?</p> <p>25 A. Okay.</p>	<p>Page 123</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And then on October 15th, there's</p> <p>3 another \$500,000 loan made to another employee</p> <p>4 that was outstanding at year end.</p> <p>5 Do I have that right?</p> <p>6 A. Okay.</p> <p>7 Q. So would you agree with me that in</p> <p>8 fiscal year 2008, Highland forgave one loan to an</p> <p>9 employee in the amount of \$400,000 and forgave in</p> <p>10 part loans to two other employees in the amount of</p> <p>11 \$300,000 each?</p> <p>12 A. Okay.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: Let's go to Exhibit</p> <p>15 No. 64.</p> <p>16 (Exhibit 64, Highland's audited</p> <p>17 financial statements for December 31, 2009,</p> <p>18 was marked for identification at this time.)</p> <p>19 BY MR. MORRIS:</p> <p>20 Q. And do you see that this is Highland's</p> <p>21 audited financial statements for December 31,</p> <p>22 2009?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MR. MORRIS: Can we go to page 33 of</p>
<p>Page 124</p> <p>1 ALAN JOHNSON</p> <p>2 the document?</p> <p>3 There you go. All right.</p> <p>4 Q. The first one that's described is an</p> <p>5 August 20th, 2008 loan in the amount of \$300,000,</p> <p>6 and that seems to correspond with the fourth loan</p> <p>7 that we looked at in 2008 because it's also a loan</p> <p>8 dated August 20, 2008 in the amount of \$330,000.</p> <p>9 Do you see that?</p> <p>10 A. I'm sorry, I lost my train.</p> <p>11 Where is it now?</p> <p>12 Q. So in the very first paragraph, under</p> <p>13 "Affiliated Transactions"?</p> <p>14 A. Yeah, okay, I see it now. I'm sorry.</p> <p>15 Q. Okay.</p> <p>16 This loan, is it fair, if you take a</p> <p>17 look at your notes, this loan corresponds with</p> <p>18 the – with the loan that was described in the</p> <p>19 2008 financials.</p> <p>20 Do you have that as the fourth item on</p> <p>21 your list, if you look at your list?</p> <p>22 A. My list is going to be incomplete here</p> <p>23 in terms of going through this, but I'm trying to</p> <p>24 take notes here, but I believe what you say is</p> <p>25 true.</p>	<p>Page 125</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 And you can see that the principal</p> <p>4 amount of the note had been reduced by year end.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 So there's no evidence that this</p> <p>9 particular note was forgiven in whole or in part</p> <p>10 in 2009, correct?</p> <p>11 A. That's right.</p> <p>12 Q. And if we look at the next paragraph,</p> <p>13 there's a reference to an August 1, 2008 note in</p> <p>14 the amount of \$500,000.</p> <p>15 Do you see that?</p> <p>16 A. Yes.</p> <p>17 Q. And that entire amount of principal</p> <p>18 was still outstanding at the end of the year.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. So there's no evidence that this note</p> <p>22 was forgiven in whole or in part in 2009, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And there's no other – we can go</p> <p>25 through the rest of the section, but there's no</p>

<p style="text-align: right;">Page 126</p> <p>1 ALAN JOHNSON</p> <p>2 other notes of any kind that are referred to in –</p> <p>3 in this section of the audited financials.</p> <p>4 If we can just scroll down to the end</p> <p>5 of the affiliated transaction sections, I mean, I</p> <p>6 will tell you that they put the employees up top.</p> <p>7 So is it fair to say based on just</p> <p>8 what I've shown you that you don't see any</p> <p>9 evidence that Highland forgave any notes to any</p> <p>10 employees in 2009?</p> <p>11 A. I think that's right.</p> <p>12 Q. Okay.</p> <p>13 MR. MORRIS: Let's go to 2010,</p> <p>14 Exhibit 65, please.</p> <p>15 (Exhibit 65, Highland's audited</p> <p>16 financial statements for December 31, 2010,</p> <p>17 was marked for identification at this time.)</p> <p>18 MR. MORRIS: And if we can turn to</p> <p>19 page 33.</p> <p>20 BY MR. MORRIS:</p> <p>21 Q. So if we look at the first paragraph,</p> <p>22 do you see there's still a reference to the</p> <p>23 \$330,000 note?</p> <p>24 A. Yep.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 127</p> <p>1 ALAN JOHNSON</p> <p>2 It's interesting, in the</p> <p>3 next-to-the-last sentence – let's see if I'm</p> <p>4 reading this correctly – it says, "The note has</p> <p>5 specific forgiveness provisions of principal and</p> <p>6 interest prior to maturity if certain milestones'</p> <p>7 dates are obtained."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. So based on that, would you conclude</p> <p>11 in your experience that the note actually had</p> <p>12 specific provisions concerning forgiveness?</p> <p>13 A. Yes, that's what that implies.</p> <p>14 Q. And based on your experience, would</p> <p>15 you understand that this note was really a form of</p> <p>16 retention note whereby it would be forgiven if the</p> <p>17 person were still employed at the time of the</p> <p>18 note's – at the end of the note's term?</p> <p>19 A. It's hard to tell. Milestones could</p> <p>20 be performance or it – it could go either way,</p> <p>21 but there's certain provisions that have been</p> <p>22 documented that it will be forgiven either through</p> <p>23 time or performance.</p> <p>24 Q. Well, it doesn't refer to milestones.</p> <p>25 Instead, it refers to milestone dates.</p>
<p style="text-align: right;">Page 128</p> <p>1 ALAN JOHNSON</p> <p>2 Do you see that?</p> <p>3 A. I – I think you're right, just I've</p> <p>4 never seen the word "milestone dates" used, so I'm</p> <p>5 not quite sure what they were trying to say, but I</p> <p>6 think you're probably right.</p> <p>7 Q. Okay.</p> <p>8 But in any event, you would agree with</p> <p>9 me that there's nothing in this paragraph that</p> <p>10 suggests that Highland forgave that loan in whole</p> <p>11 or in part in 2010, correct?</p> <p>12 A. That's right.</p> <p>13 Q. And if we scroll down through the rest</p> <p>14 of this section, I think – I hope you'll agree</p> <p>15 with me that there's no other reference to any</p> <p>16 other loans given to any employee in 2010?</p> <p>17 A. I think that's right.</p> <p>18 MR. MORRIS: Okay. Let's go to</p> <p>19 Exhibit 66 –</p> <p>20 Q. Oh, I'm going to tell you, I'm</p> <p>21 skipping, actually, because there's only so much</p> <p>22 pain I'm willing to endure.</p> <p>23 We're going to skip 2011, '12, and</p> <p>24 '13, and I'm going to represent to you that</p> <p>25 there's absolutely nothing in any of those audited</p>	<p style="text-align: right;">Page 129</p> <p>1 ALAN JOHNSON</p> <p>2 financial statements that pertains or concerns any</p> <p>3 loans given to any employee.</p> <p>4 And you can – you can – not accept</p> <p>5 my representation, but take that as an assumption</p> <p>6 you should make, that there's no reference to any</p> <p>7 loan to any employee in those years.</p> <p>8 MR. MORRIS: Can we go to Exhibit 66</p> <p>9 please.</p> <p>10 MS. CANTY: It's 69, 2014.</p> <p>11 MR. MORRIS: Okay. Yep, it's up on</p> <p>12 the screen.</p> <p>13 (Exhibit 69, Highland's audited</p> <p>14 financial statements for December 31, 2014,</p> <p>15 was marked for identification at this time.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. So do you see that this is the 2014</p> <p>18 audited financial reports for Highland Capital</p> <p>19 Management?</p> <p>20 A. Yes.</p> <p>21 Q. And you may or may not have seen this</p> <p>22 report. Is that right?</p> <p>23 A. I think I got it.</p> <p>24 Q. When you reviewed the audited</p> <p>25 financial statements that you were given, did you</p>

<p style="text-align: right;">Page 130</p> <p>1 ALAN JOHNSON</p> <p>2 review them to try to learn any more information</p> <p>3 about the practice that was described to you</p> <p>4 whereby Highland would forgive loans to employees</p> <p>5 in whole or in part?</p> <p>6 A. I had just received these. I didn't</p> <p>7 have time to go through it.</p> <p>8 MR. MORRIS: Let's go to page 27,</p> <p>9 please.</p> <p>10 Q. Okay. Do you see that there's a</p> <p>11 section called "Affiliated Transactions" again</p> <p>12 that begins at the bottom of page 27?</p> <p>13 A. Okay.</p> <p>14 Q. And do you see that the first</p> <p>15 paragraph describes a loan between Highland and</p> <p>16 Highland Capital Management Fund Advisors?</p> <p>17 A. Yes.</p> <p>18 Q. And does it appear to you that the</p> <p>19 loan that was granted in 2014 was fully</p> <p>20 outstanding at year end?</p> <p>21 A. Yes.</p> <p>22 Q. And there's no reference in that</p> <p>23 paragraph to any portion of the loan having been</p> <p>24 forgiven, correct?</p> <p>25 A. That's right.</p>	<p style="text-align: right;">Page 131</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And then the next paragraph refers to</p> <p>3 another loan between the same parties.</p> <p>4 Do I have that right?</p> <p>5 A. Yes.</p> <p>6 Q. And there's nothing in that paragraph</p> <p>7 that suggests that that loan was forgiven in whole</p> <p>8 or in part at any time in 2014, correct?</p> <p>9 A. That's right.</p> <p>10 MR. MORRIS: And let's go to the next</p> <p>11 page, please.</p> <p>12 Q. Do you see that there's a reference to</p> <p>13 a note in the first paragraph between Highland and</p> <p>14 NexPoint that was issued in 2014?</p> <p>15 A. Yes.</p> <p>16 Q. And there's nothing in that paragraph</p> <p>17 that suggests the note was forgiven in whole or in</p> <p>18 part at any time in 2014, correct?</p> <p>19 A. Yes.</p> <p>20 Q. In fact, the entirety of the principal</p> <p>21 amount plus interest was still due at year end,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. The next paragraph, do you see it</p> <p>25 refers to a note between Highland and an entity</p>
<p style="text-align: right;">Page 132</p> <p>1 ALAN JOHNSON</p> <p>2 called "HCRE"?</p> <p>3 A. Yes.</p> <p>4 Q. And there's nothing in that paragraph</p> <p>5 that suggests that the note or the loan was</p> <p>6 forgiven in whole or in part at any time in 2014,</p> <p>7 correct?</p> <p>8 A. That's right.</p> <p>9 Q. There was a modest payment made of</p> <p>10 principal during the year.</p> <p>11 Do I have that right? Is my</p> <p>12 interpretation a fair interpretation?</p> <p>13 A. That's right.</p> <p>14 Q. And then the last section of this, the</p> <p>15 last paragraph of this section refers to a note</p> <p>16 between Highland and an entity called "Highland</p> <p>17 Capital Management Services, Inc."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. And there's nothing in that paragraph</p> <p>21 that suggests that any portion of that loan was</p> <p>22 forgiven in whole or in part in 2014, correct?</p> <p>23 A. That's right.</p> <p>24 Q. And, in fact, the entire principal</p> <p>25 balance plus interest was due at year end. Is</p>	<p style="text-align: right;">Page 133</p> <p>1 ALAN JOHNSON</p> <p>2 that fair?</p> <p>3 A. Yes.</p> <p>4 MR. MORRIS: Okay. Let's go to 2015,</p> <p>5 please.</p> <p>6 What exhibit are we on?</p> <p>7 MS. CANTY: 70 is 2015.</p> <p>8 MR. MORRIS: I see what we did. Okay.</p> <p>9 (Exhibit 70, Highland's audited</p> <p>10 financial statements for December 31, 2015,</p> <p>11 was marked for identification at this time.)</p> <p>12 MR. MORRIS: If we can just go to the</p> <p>13 first page, please.</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. Do you see that this is the first page</p> <p>16 of the audited financial statements for the year</p> <p>17 ending 2015 for Highland?</p> <p>18 A. Yes.</p> <p>19 Q. And you're not relying on this</p> <p>20 document for any of your opinions, correct?</p> <p>21 A. That's right.</p> <p>22 MR. MORRIS: Can we turn to page 27,</p> <p>23 please – I messed this up, sorry.</p> <p>24 Keep going down. Keep going. Keep</p> <p>25 going.</p>

<p style="text-align: right;">Page 134</p> <p>1 ALAN JOHNSON</p> <p>2 Okay. Stop right there.</p> <p>3 Can we just scroll down so we can see</p> <p>4 what page number we're on?</p> <p>5 Q. All right. Do you see we're on</p> <p>6 page 29, Mr. Johnson?</p> <p>7 A. Yes.</p> <p>8 MR. MORRIS: Can we go to the top of</p> <p>9 the affiliates transaction.</p> <p>10 Q. Do you see that there's a reference to</p> <p>11 Highland Capital Management Fund Advisors?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 And do you see there's a reference to</p> <p>15 \$6.1 million principal and interest being due at</p> <p>16 the year end?</p> <p>17 A. Yes.</p> <p>18 Q. And then there's a sentence that says,</p> <p>19 "The partnership will not demand payment on</p> <p>20 amounts owed prior to May 31, 2017."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Were you aware that Highland had</p> <p>24 agreed with its affiliate not to make a demand on</p> <p>25 the payments for a period of time?</p>	<p style="text-align: right;">Page 135</p> <p>1 ALAN JOHNSON</p> <p>2 A. I wasn't aware of that.</p> <p>3 Q. Do you see the last paragraph – the</p> <p>4 last sentence of the paragraph says, "A fair value</p> <p>5 of the partnership's outstanding notes receivable</p> <p>6 approximates the carrying value of the notes</p> <p>7 receivable"?</p> <p>8 A. Yes.</p> <p>9 Q. Do you understand that to mean that</p> <p>10 the fair value of the notes equals to the</p> <p>11 principal face amount of the notes?</p> <p>12 A. The carrying value would include the</p> <p>13 face amount probably and any unpaid interest, but</p> <p>14 yes, it would be the book – the book value, yes.</p> <p>15 Q. And the book value in this case equals</p> <p>16 the unpaid principal and interest due on the note,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And so as of this time anyway, the</p> <p>20 fair value of the notes equaled the unpaid</p> <p>21 principal and interest due on the note, correct?</p> <p>22 MR. AIGEN: Objection, form.</p> <p>23 A. Yes. Yes, I think that's right.</p> <p>24 Q. There's nothing in that first</p> <p>25 paragraph that says or suggests that any of the</p>
<p style="text-align: right;">Page 136</p> <p>1 ALAN JOHNSON</p> <p>2 loans with HCMFA were forgiven in whole or in part</p> <p>3 in 2015, correct?</p> <p>4 A. Right.</p> <p>5 Q. And the next paragraph relates to</p> <p>6 loans with NexPoint Advisors.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 Take your time, but my question is</p> <p>11 whether there's anything in that paragraph that</p> <p>12 states or suggests that any portion of the loans</p> <p>13 between Highland and NexPoint were forgiven in</p> <p>14 whole or in part in 2015?</p> <p>15 A. I think that's right, yes.</p> <p>16 Q. Do you see there was also a statement</p> <p>17 regarding Highland's not demanding payment on the</p> <p>18 notes for a couple of years?</p> <p>19 A. Yes.</p> <p>20 Q. In your experience and based on your</p> <p>21 expertise, can you think of a reason why Highland</p> <p>22 would agree not to make a demand on promissory</p> <p>23 notes?</p> <p>24 A. It could be the financial condition of</p> <p>25 the borrower that was part of the negotiation</p>	<p style="text-align: right;">Page 137</p> <p>1 ALAN JOHNSON</p> <p>2 putting the loans together. It would – it</p> <p>3 generally have something to do with the financial</p> <p>4 condition of the borrower and the terms.</p> <p>5 Q. Let's look at the next paragraph.</p> <p>6 Do you see it relates to HCRE?</p> <p>7 A. Yes.</p> <p>8 Q. And do you see how during 2014 and</p> <p>9 '15, HCRE issued promissory notes to Highland in</p> <p>10 the aggregate amount of \$13 million and that</p> <p>11 principal amount plus interest was due at the end</p> <p>12 of the year?</p> <p>13 A. Sorry, it just says it's payable on</p> <p>14 demand, right?</p> <p>15 Q. Right.</p> <p>16 And the amount is – that was loaned</p> <p>17 was \$13 million, but at year end 2015, the unpaid</p> <p>18 principal and interest actually equaled</p> <p>19 \$13.3 million.</p> <p>20 Have I read that correctly?</p> <p>21 A. Yes.</p> <p>22 Q. Is there anything in this paragraph</p> <p>23 that says or suggests that Highland forgave in</p> <p>24 whole or in part any loans that were made to HCRE</p> <p>25 in the year 2014 or '15?</p>

<p style="text-align: right;">Page 138</p> <p>1 ALAN JOHNSON</p> <p>2 A. No.</p> <p>3 MR. MORRIS: Let's go to the next</p> <p>4 paragraph.</p> <p>5 Q. Do you see there's a reference to</p> <p>6 loans or promissory notes that were issued to</p> <p>7 Highland by HCMSI?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 And do you see that the aggregate</p> <p>11 amount of the notes was \$23 million?</p> <p>12 A. Yes.</p> <p>13 Q. And do you see that during the years</p> <p>14 ended 2014, Highland Capital Management Services,</p> <p>15 Inc. repaid \$8.1 million in principal?</p> <p>16 A. Yes.</p> <p>17 Q. Is it customary in the industry to</p> <p>18 make principal payments or interest payments</p> <p>19 against loans that are the subject to agreements</p> <p>20 of forgiveness?</p> <p>21 A. It really would depend on the</p> <p>22 likelihood of it being forgiven. If I had a loan</p> <p>23 that I thought wouldn't be forgiven, I might pay</p> <p>24 it early because I just don't think the</p> <p>25 probability of being forgiven is likely. If I</p>	<p style="text-align: right;">Page 139</p> <p>1 ALAN JOHNSON</p> <p>2 think it's likely or highly likely, I would try to</p> <p>3 avoid paying down the balance and wait for it to</p> <p>4 be forgiven.</p> <p>5 Q. And is that the advice you would give</p> <p>6 to the maker of a note who owed money that was</p> <p>7 subject to a forgiveness agreement?</p> <p>8 A. Maker of the loan, I would tell them</p> <p>9 if -- if things are looking like you're going to</p> <p>10 forgive it, they probably won't want to pay down</p> <p>11 the principal and the interest if they can avoid</p> <p>12 it, and if the -- it's unlikely it will be</p> <p>13 forgiven due to the terms, then they're more</p> <p>14 likely to pay the principal and interest sooner.</p> <p>15 Q. Is there anything in this paragraph</p> <p>16 that says or suggests that Highland had agreed to</p> <p>17 forgive in whole or in part any loan that it had</p> <p>18 extended to Highland Capital Management Services?</p> <p>19 A. I don't believe so, no.</p> <p>20 MR. MORRIS: Okay. Let's go to the</p> <p>21 2016 financials.</p> <p>22 Q. Do you see that this is the audited</p> <p>23 financial statements for Highland Capital</p> <p>24 Management, L.P. for the period ending December</p> <p>25 31, 2016?</p>
<p style="text-align: right;">Page 140</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And you're not relying on this</p> <p>4 report for any of your opinions, correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay.</p> <p>7 MR. MORRIS: Can we go to page 31,</p> <p>8 please.</p> <p>9 Q. Okay. Do you see notes and other</p> <p>10 amounts due from affiliates?</p> <p>11 A. Yes.</p> <p>12 Q. The first paragraph relates to loans</p> <p>13 between Highland and its affiliate HCMFA.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Is there anything in this paragraph</p> <p>17 that states or suggests that Highland has forgiven</p> <p>18 in whole or in part any portion of any loan that</p> <p>19 it made to HCMFA?</p> <p>20 A. No.</p> <p>21 Q. Looking at the next paragraph, do you</p> <p>22 see that concerns loans between Highland and</p> <p>23 NexPoint Advisors?</p> <p>24 A. Yes.</p> <p>25 Q. Is there anything in that paragraph</p>	<p style="text-align: right;">Page 141</p> <p>1 ALAN JOHNSON</p> <p>2 that states or suggests that Highland forgave in</p> <p>3 whole or in part any portion of any loan that it</p> <p>4 gave to NexPoint?</p> <p>5 A. No.</p> <p>6 Q. Looking at the next paragraph, do you</p> <p>7 see there's a reference to loans between Highland</p> <p>8 and HCRE Partners, LLC?</p> <p>9 A. Yes.</p> <p>10 Q. Is there any statement or suggestions</p> <p>11 in that paragraph that Highland forgave in whole</p> <p>12 or in part any loan it made to HCRE Partners, LLC?</p> <p>13 A. No.</p> <p>14 Q. Looking at the next paragraph, do you</p> <p>15 see there's a reference to loans between Highland</p> <p>16 and HCMSI?</p> <p>17 A. Yes.</p> <p>18 Q. Is there anything in that paragraph</p> <p>19 that states or suggests that Highland forgave in</p> <p>20 whole or in part any loan that it made to HCMSI?</p> <p>21 A. No.</p> <p>22 MR. MORRIS: Okay. Can we go to the</p> <p>23 next paragraph.</p> <p>24 Q. Do you see there's a reference to</p> <p>25 promissory notes that James Dondero issued to</p>

<p style="text-align: right;">Page 142</p> <p>1 ALAN JOHNSON</p> <p>2 Highland in the aggregate amount of \$14.8 million</p> <p>3 in 2016?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 So this is the first time we're seeing</p> <p>7 a loan to Mr. Dondero that's reported in the</p> <p>8 financial statements that we've looked at. Is</p> <p>9 that fair?</p> <p>10 A. I think that's right, yes.</p> <p>11 Q. Okay.</p> <p>12 And according to this audited</p> <p>13 financial statement, Highland loaned Mr. Dondero</p> <p>14 \$14.8 million in 2016.</p> <p>15 Do I have that right?</p> <p>16 A. Yes.</p> <p>17 Q. And at the end of the year, he</p> <p>18 actually owed principal and interest in the amount</p> <p>19 of \$14.9 million, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And there's no statement or suggestion</p> <p>22 in this paragraph that Highland had forgiven in</p> <p>23 whole or in part any portion of the loans that it</p> <p>24 had extended to Mr. Dondero.</p> <p>25 Do I have that right?</p>	<p style="text-align: right;">Page 143</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 Do you see the next paragraph relates</p> <p>5 to a gentleman named Mark Okada?</p> <p>6 A. Yes.</p> <p>7 Q. Do you have any understanding as to</p> <p>8 who Mr. Okada is?</p> <p>9 A. He was the other major shareholder in</p> <p>10 Highland.</p> <p>11 Q. And do you understand him to be one of</p> <p>12 the – to be a co-founder with Mr. Dondero of</p> <p>13 Highland?</p> <p>14 A. I believe that's right, yes.</p> <p>15 Q. Did you make any inquiry as to whether</p> <p>16 or not Mr. Okada had ever obtained any loans from</p> <p>17 Highland?</p> <p>18 A. I don't – I don't believe I did.</p> <p>19 Q. Do you know if Highland ever forgave</p> <p>20 any loan in whole or in part that it extended to</p> <p>21 Mr. Okada?</p> <p>22 A. I don't know.</p> <p>23 Q. Are you aware that Mr. Okada paid back</p> <p>24 the loan referenced in this paragraph in full plus</p> <p>25 interest?</p>
<p style="text-align: right;">Page 144</p> <p>1 ALAN JOHNSON</p> <p>2 A. I was not aware of that.</p> <p>3 MR. MORRIS: Let's just go to the next</p> <p>4 page to see if there's anything else here.</p> <p>5 Q. There's a reference to Dugaboy.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. You don't know what Dugaboy is, do</p> <p>9 you?</p> <p>10 A. I do not.</p> <p>11 Q. Nobody has ever told you about</p> <p>12 Dugaboy.</p> <p>13 Do I have that right?</p> <p>14 A. That's right.</p> <p>15 Q. So you weren't aware that Highland</p> <p>16 loaned \$23.4 million to Dugaboy in 2016?</p> <p>17 A. Well, that's not – it says they</p> <p>18 purchased a promissory note due from Dugaboy.</p> <p>19 Q. Okay.</p> <p>20 So now Dugaboy owes the partnership</p> <p>21 \$23.4 million, correct?</p> <p>22 A. That's not – at least my reading of</p> <p>23 it is they purchased a note from Dugaboy.</p> <p>24 Q. Why don't we assume that what they</p> <p>25 meant by that was that Dugaboy provided a note to</p>	<p style="text-align: right;">Page 145</p> <p>1 ALAN JOHNSON</p> <p>2 Highland in the amount of \$23.4 million.</p> <p>3 Okay? Can we make that assumption?</p> <p>4 A. We can assume that. That's not what</p> <p>5 it says.</p> <p>6 Q. Okay. I'm going to ask you to</p> <p>7 assume –</p> <p>8 A. Okay.</p> <p>9 Q. – that in 2016, Dugaboy incurred an</p> <p>10 obligation to Highland in the amount of</p> <p>11 \$23.6 million.</p> <p>12 I'm going to ask you to further assume</p> <p>13 that the Dugaboy Investment Trust is a trust</p> <p>14 created by Jim Dondero.</p> <p>15 I'm going to ask you to further assume</p> <p>16 that the purpose of the trust is to provide living</p> <p>17 expenses to the beneficiaries.</p> <p>18 I'm going to ask you to further assume</p> <p>19 that Mr. Dondero is the beneficiary of that trust</p> <p>20 for his lifetime.</p> <p>21 And I'm going to ask you to further</p> <p>22 assume that his sister Nancy is the trustee.</p> <p>23 If Highland loaned money to Dugaboy,</p> <p>24 is that a fact that would have been relevant to</p> <p>25 your analysis?</p>

<p style="text-align: right;">Page 146</p> <p>1 ALAN JOHNSON</p> <p>2 A. It could have been. It could have</p> <p>3 been.</p> <p>4 Q. And why could it have been relevant to</p> <p>5 your analysis?</p> <p>6 A. Well, if it's in effect a loan to him,</p> <p>7 then I would probably consider it similar to the</p> <p>8 other loans, but maybe if I had time to think</p> <p>9 about it, it – I might have considered</p> <p>10 differently.</p> <p>11 But if I came to the conclusion that</p> <p>12 loaning to that – the investment trust or to him</p> <p>13 personally is essentially the same thing, then I</p> <p>14 probably would have considered, you know, an</p> <p>15 equal – on an equal basis.</p> <p>16 Q. Now, neither Mr. Dondero nor Stinson</p> <p>17 shared with you any information about any loan</p> <p>18 that Highland ever extended to Dugaboy, if any.</p> <p>19 Is that correct?</p> <p>20 A. It may have been in the listing of</p> <p>21 loans – the listing, but I had no separate</p> <p>22 conversation about Dugaboy, no.</p> <p>23 Q. There's nothing in this paragraph that</p> <p>24 suggests that any loan between Dugaboy and</p> <p>25 Highland was forgiven in whole or in part in 2016,</p>	<p style="text-align: right;">Page 147</p> <p>1 ALAN JOHNSON</p> <p>2 correct?</p> <p>3 A. That's right.</p> <p>4 Q. So if you look at your notes and</p> <p>5 refresh your recollection as to what we've been</p> <p>6 through just now, is it fair to say that there's</p> <p>7 no evidence of Highland forgiving any loan to</p> <p>8 anybody in the world in whole or in part at any</p> <p>9 time since 2008?</p> <p>10 MR. AIGEN: Objection, form.</p> <p>11 A. The ones we've looked through, I think</p> <p>12 you're right. I think there was forgiveness in</p> <p>13 2008. I think that's correct.</p> <p>14 Q. And given the amounts of the loans</p> <p>15 that we looked at in 2008 – and if you want to</p> <p>16 refer to your cheat sheet to refresh your</p> <p>17 recollection – does it seem that the loans that</p> <p>18 were described in the 2008 audited financial</p> <p>19 statements might, in fact, be the very loans that</p> <p>20 were described for you by the four individuals you</p> <p>21 interviewed?</p> <p>22 A. They could – they certainly could</p> <p>23 have been, yes.</p> <p>24 Q. They're consistent with the amount of</p> <p>25 the loans that were forgiven as was told by you,</p>
<p style="text-align: right;">Page 148</p> <p>1 ALAN JOHNSON</p> <p>2 right?</p> <p>3 A. That is correct, yes.</p> <p>4 MR. MORRIS: Let's go to 2017.</p> <p>5 Can we go to page 30 –</p> <p>6 Q. Oh, I apologize, before we do that,</p> <p>7 did you see that first page, sir?</p> <p>8 Do you understand that we're looking</p> <p>9 at Highland's audited financial statements for the</p> <p>10 period ending December 31, 2017?</p> <p>11 A. Yes.</p> <p>12 Q. Okay.</p> <p>13 And this is not a document you're</p> <p>14 relying on, correct?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay.</p> <p>17 So now we're at page 30 of the audited</p> <p>18 financial statements, and we're again in the</p> <p>19 section relating to notes and other amounts due</p> <p>20 from affiliates.</p> <p>21 And do you see the first paragraph</p> <p>22 relates to notes that Highland Capital Management</p> <p>23 Fund Advisors has issued to Highland?</p> <p>24 A. Yes.</p> <p>25 Q. And this paragraph, like all of the</p>	<p style="text-align: right;">Page 149</p> <p>1 ALAN JOHNSON</p> <p>2 paragraphs, continues to say, quote, at the end,</p> <p>3 that fair value of the partnership's outstanding</p> <p>4 notes receivable approximates the carrying value</p> <p>5 of the notes receivable.</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. Okay.</p> <p>9 And that sentence is at the end of</p> <p>10 every paragraph in this section.</p> <p>11 Do I have that right, if we continue</p> <p>12 to scroll there?</p> <p>13 A. Yes.</p> <p>14 Q. Okay.</p> <p>15 So looking at the first paragraph</p> <p>16 relating to HCMFA, there's nothing in that</p> <p>17 paragraph that states or suggests that Highland</p> <p>18 agreed to forgive in whole or in part any loan it</p> <p>19 had extended to HCMFA, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And looking at the second paragraph,</p> <p>22 do you see that it states that Highland combined</p> <p>23 its outstanding promissory and revolving notes</p> <p>24 from NexPoint to a single note with a 30-year</p> <p>25 amortization schedule?</p>

<p style="text-align: right;">Page 150</p> <p>1 ALAN JOHNSON</p> <p>2 I'm summarizing.</p> <p>3 A. Yes.</p> <p>4 Q. And is it fair to assume that that's</p> <p>5 probably one of the notes that recently saw?</p> <p>6 MR. AIGEN: Objection, form.</p> <p>7 A. Yes. Yes.</p> <p>8 Q. Yes?</p> <p>9 A. Yes, that's correct.</p> <p>10 Q. And the reason it's correct is because</p> <p>11 it comports with your recollection that there was</p> <p>12 a roll-up of previously outstanding notes that</p> <p>13 were combined in one into a 30-year term note,</p> <p>14 right?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay.</p> <p>17 Is there anything in this paragraph</p> <p>18 that states or suggests that Highland agreed to</p> <p>19 forgive in whole or in part any aspect of any loan</p> <p>20 it ever gave to NexPoint?</p> <p>21 A. No, there's not.</p> <p>22 Q. Looking at the next paragraph for</p> <p>23 HCRE, do you see that there's a description of the</p> <p>24 promissory note that HCRE issued to Highland in</p> <p>25 exchange for a loan in December – in 2017?</p>	<p style="text-align: right;">Page 151</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yes.</p> <p>3 Q. Is there anything in that paragraph</p> <p>4 that suggests or states that Highland has agreed</p> <p>5 to forgive in whole or in part any portion of any</p> <p>6 loan it ever extended to HCRE?</p> <p>7 A. No.</p> <p>8 Q. The next paragraph refers to loans</p> <p>9 that Highland has extended to Highland Capital</p> <p>10 Management Services, Inc.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Is there anything in that paragraph</p> <p>14 that states or suggests that Highland has agreed</p> <p>15 to forgive in whole or in part any portion of any</p> <p>16 loan it ever extended to HCMSI?</p> <p>17 A. No.</p> <p>18 MR. MORRIS: Can we go to the next</p> <p>19 paragraph, please.</p> <p>20 Q. Okay. These two paragraphs relate to</p> <p>21 Mr. Dondero and Mr. Okada.</p> <p>22 Did you see that?</p> <p>23 A. Yes.</p> <p>24 Q. And it wasn't up on the screen before,</p> <p>25 so I just want to make it clear that each of those</p>
<p style="text-align: right;">Page 152</p> <p>1 ALAN JOHNSON</p> <p>2 paragraph ends with the same sentence concerning</p> <p>3 the fair value of the notes approximating the</p> <p>4 carrying value the notes receivable.</p> <p>5 Do I have that right?</p> <p>6 A. Yes.</p> <p>7 Q. Okay.</p> <p>8 Now, remember we saw in the 2016</p> <p>9 financials that Mr. Dondero had \$14.9 million</p> <p>10 outstanding at year end.</p> <p>11 Do you recall that?</p> <p>12 A. I don't specifically recall that,</p> <p>13 but – I don't specifically recall that, no.</p> <p>14 Q. I'll represent to you that the 2016</p> <p>15 audited financial statements showed that the</p> <p>16 outstanding principal and interest due by</p> <p>17 Mr. Dondero under the note that he issued to</p> <p>18 Highland was \$14.9 million. Okay?</p> <p>19 A. Okay.</p> <p>20 Q. With that representation, do you see</p> <p>21 that the amount has been reduced by \$400,000 at</p> <p>22 the end of 2017?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 And so is it fair – is it a fair</p>	<p style="text-align: right;">Page 153</p> <p>1 ALAN JOHNSON</p> <p>2 conclusion to reach that at some point in 2017,</p> <p>3 Mr. Dondero made payments against his obligations</p> <p>4 to Highland that reduced the amount owing from</p> <p>5 14.9 million to 14.5 million at the end of 2017,</p> <p>6 again, assuming that I'm right about 2016?</p> <p>7 A. That would be right. That would be</p> <p>8 correct, yes.</p> <p>9 Q. And there's nothing in this paragraph</p> <p>10 that states or suggests that Highland has agreed</p> <p>11 to forgive in whole or in part any loan it has</p> <p>12 ever extended to Mr. Dondero, correct?</p> <p>13 A. That's correct.</p> <p>14 Q. Okay. So I would like you to note</p> <p>15 down, because it's hard to flip back – this is</p> <p>16 the dilemma of virtual depositions – but can you</p> <p>17 write down that Mr. Dondero owed Highland</p> <p>18 principal and interest of \$14-and-a-half million</p> <p>19 at the end of 2017?</p> <p>20 A. Okay.</p> <p>21 Q. And the next paragraph relates to</p> <p>22 Mr. Okada.</p> <p>23 There's nothing in there that states</p> <p>24 or suggests that Highland has agreed to forgive in</p> <p>25 whole or in part any loan Highland had ever</p>

<p>Page 154</p> <p>1 ALAN JOHNSON</p> <p>2 extended to Mr. Okada, correct?</p> <p>3 A. That's correct.</p> <p>4 MR. MORRIS: Okay. Can we continue on</p> <p>5 to the next page.</p> <p>6 Q. And do you see the first paragraph</p> <p>7 relates to Dugaboy again?</p> <p>8 A. Yes.</p> <p>9 Q. And it specifically says that during</p> <p>10 the year ending December 31, 2017, Dugaboy did not</p> <p>11 issue any new notes to the partnership.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And then it states that all</p> <p>15 outstanding notes accrue interest at the rate of</p> <p>16 2.75 percent.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And then it says that at year end, the</p> <p>20 total unpaid principal and interest due was</p> <p>21 approximately \$22.8 million and was payable on</p> <p>22 demand?</p> <p>23 Have I read that correctly?</p> <p>24 A. Yes.</p> <p>25 Q. Okay.</p>	<p>Page 155</p> <p>1 ALAN JOHNSON</p> <p>2 Is there anything in this paragraph</p> <p>3 that states or suggests that Highland ever agreed</p> <p>4 to forgive in whole or in part any loan it ever</p> <p>5 extended to Dugaboy?</p> <p>6 A. No.</p> <p>7 Q. The next paragraph refers to a</p> <p>8 contribution agreement.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Have any idea what a contribution</p> <p>12 agreement is in this context?</p> <p>13 A. Not in this context, no.</p> <p>14 Q. Is that something you might -- you</p> <p>15 might have asked about had you been told -- had</p> <p>16 you been given these financial statements, let's</p> <p>17 say, back in July?</p> <p>18 A. I -- I might have asked about this,</p> <p>19 yes.</p> <p>20 Q. I mean, in fact, this is in the</p> <p>21 section of the audited financial statements that</p> <p>22 is entitled --</p> <p>23 MR. MORRIS: If would can go back to</p> <p>24 the top -- no -- I'm sorry -- the top of</p> <p>25 that section, page -- yeah.</p>
<p>Page 156</p> <p>1 ALAN JOHNSON</p> <p>2 Q. That section is specifically called</p> <p>3 "Notes and Other Amounts Due From Affiliates,"</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. If you wanted to assess whether or not</p> <p>7 Mr. Dondero was reasonably compensated, wouldn't</p> <p>8 you want to know about all of the notes that</p> <p>9 Highland held on behalf of the affiliates that</p> <p>10 were owned and controlled by Mr. Dondero?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. I -- I would have -- if I had had the</p> <p>13 financials, I would have certainly looked through</p> <p>14 these things, yes.</p> <p>15 Q. And if you had been given this</p> <p>16 information, wouldn't you want to know the full</p> <p>17 extent -- I mean -- withdrawn.</p> <p>18 I think we -- I think at the beginning</p> <p>19 of the day -- I know we've been going at this for</p> <p>20 a while -- you specifically told me that you would</p> <p>21 advise a decision maker to know and understand the</p> <p>22 full scope of all loans that were given to or for</p> <p>23 the benefit of the executive before entering into</p> <p>24 a forgiveness agreement, right?</p> <p>25 A. Yes.</p>	<p>Page 157</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 And the information that's contained</p> <p>4 in this section of the audited financial</p> <p>5 statements specifically pertains to loans to</p> <p>6 affiliates. Isn't that right?</p> <p>7 A. Yes, among other things, but yes.</p> <p>8 Q. Okay.</p> <p>9 In order to know if Mr. Dondero had</p> <p>10 been compensated in a way equal to his peers</p> <p>11 wouldn't you want to know the full extent of</p> <p>12 amounts loaned to entities he owned and</p> <p>13 controlled?</p> <p>14 MR. AIGEN: Objection to form.</p> <p>15 A. Well, a straight loan to someone is</p> <p>16 not generally compensation. If the loan is going</p> <p>17 to be forgiven at some point in the future, yes,</p> <p>18 that would have been a relevant -- you know,</p> <p>19 relevant factor, but just a straight loan wouldn't</p> <p>20 generally be considered compensation.</p> <p>21 Q. If Highland -- let's say</p> <p>22 hypothetically Highland -- withdrawn.</p> <p>23 You see NexPoint Advisors on the page,</p> <p>24 the second box?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 158</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Highland – let's assume that James</p> <p>3 Dondero owns and controls NexPoint. Okay?</p> <p>4 A. Yes.</p> <p>5 Q. As of May 31, 2017, according to</p> <p>6 Highland's audited financial statements, it loaned</p> <p>7 NexPoint \$30.7 million.</p> <p>8 Do you see that?</p> <p>9 A. Well, I think it's saying it combined</p> <p>10 all these notes together and a new note of 30.7,</p> <p>11 right.</p> <p>12 Q. I appreciate that – that precision.</p> <p>13 So let me restate the question.</p> <p>14 According to the audited financial</p> <p>15 statements, Highland had loaned in the aggregate</p> <p>16 \$30.7 million to NexPoint, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 And what if I told you that NexPoint</p> <p>20 took that money and they invested it and they</p> <p>21 turned that money into \$100 million, would that be</p> <p>22 a benefit to Mr. Dondero if you assume that he</p> <p>23 owned and controlled the entity?</p> <p>24 A. Well, it's certainly – he made a wise</p> <p>25 investment with his \$30 million loan for sure.</p>	<p style="text-align: right;">Page 159</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And would you agree that Highland</p> <p>3 enabled him to make that wise investment by giving</p> <p>4 him the loan?</p> <p>5 A. They facilitated it, but it depends</p> <p>6 what the terms of the loan are and – so, yes, he</p> <p>7 would have benefited from his wise investment, and</p> <p>8 they would have facilitated him doing that by</p> <p>9 loaning the \$30 million.</p> <p>10 Q. And NexPoint didn't go into the</p> <p>11 marketplace to negotiate for a loan with a third</p> <p>12 party, right?</p> <p>13 A. That, I don't know.</p> <p>14 Q. Well, they took the loan from</p> <p>15 Highland, correct?</p> <p>16 A. It already had loans, right, from</p> <p>17 Highland, yes.</p> <p>18 Q. And you understood that Mr. Dondero</p> <p>19 controlled both NexPoint and Highland at the time,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 And so is it fair to say based on your</p> <p>24 experience and expertise that Highland used –</p> <p>25 withdrawn.</p>
<p style="text-align: right;">Page 160</p> <p>1 ALAN JOHNSON</p> <p>2 Is it based – is it fair based on</p> <p>3 your knowledge and expertise that Mr. Dondero used</p> <p>4 Highland to increase the value of its affiliated</p> <p>5 companies by providing it with capital?</p> <p>6 MR. AIGEN: Objection to form.</p> <p>7 A. Yeah, I don't – I guess I would be</p> <p>8 uncomfortable – I'm not sure I understand the</p> <p>9 question. I'm sorry.</p> <p>10 Q. Okay.</p> <p>11 You did not – your report and your</p> <p>12 opinions – withdrawn. Let me take this simply.</p> <p>13 Your conclusion in your report is that</p> <p>14 Mr. Dondero had earnings from Highland of</p> <p>15 approximately \$3 million for the 7 years prior to</p> <p>16 the petition date; correct?</p> <p>17 A. That's right, from the – from the –</p> <p>18 yes, from the various entities, yes.</p> <p>19 Q. And based on your analysis of</p> <p>20 comparable executives, you believe he should have</p> <p>21 been earning \$6 million for each of those seven</p> <p>22 years, correct?</p> <p>23 A. Yes, that is correct.</p> <p>24 Q. And the difference between the two</p> <p>25 equals \$3 million for seven years, or \$21 million.</p>	<p style="text-align: right;">Page 161</p> <p>1 ALAN JOHNSON</p> <p>2 Do I have that right?</p> <p>3 A. Yes.</p> <p>4 Q. And you calculated that based solely</p> <p>5 on certain W-2 income, correct?</p> <p>6 A. W-2s and I think, also, with the</p> <p>7 1040s, I believe, but yeah, it was the W-2s.</p> <p>8 Q. So you did not take into account, for</p> <p>9 example, any benefit that Mr. Dondero received by</p> <p>10 using Highland's capital to support his affiliated</p> <p>11 companies, correct?</p> <p>12 MR. AIGEN: Objection, form.</p> <p>13 A. We did not take into account any</p> <p>14 ownership – using the ownership capital either</p> <p>15 for him or for anybody else, that's correct.</p> <p>16 Q. And you didn't try to quantify the</p> <p>17 benefit to Mr. Dondero from using Highland's</p> <p>18 capital to support his affiliated companies,</p> <p>19 correct?</p> <p>20 A. We made no attempt to – to do it for</p> <p>21 him or for anybody else we might have thought of</p> <p>22 as comparable executives, that's correct.</p> <p>23 Q. Would you – would you agree with me</p> <p>24 that it was a benefit to Mr. Dondero to have</p> <p>25 access to Highland's capital for the purpose of</p>

<p style="text-align: right;">Page 162</p> <p>1 ALAN JOHNSON</p> <p>2 supporting his affiliated companies?</p> <p>3 MR. AIGEN: Objection, form.</p> <p>4 A. He – he benefited from having</p> <p>5 significant capital – he certainly benefited as</p> <p>6 an owner from something significant capital,</p> <p>7 absolutely.</p> <p>8 Q. Okay.</p> <p>9 And how would you – how would you</p> <p>10 describe that benefit?</p> <p>11 A. Well, he would get returns on the</p> <p>12 capital. Either through loans or direct</p> <p>13 investments as the owner of both Highland and</p> <p>14 NexPoint, he would benefit from their successes</p> <p>15 and, of course, lose from their failures.</p> <p>16 Q. Are you aware of any failures?</p> <p>17 A. In getting these financials, there</p> <p>18 were a couple of years that were terrible. There</p> <p>19 were some outstanding years, so it varied during</p> <p>20 this period.</p> <p>21 So there were certainly a couple of</p> <p>22 years with very disappointing results.</p> <p>23 Q. And which entity are you referring to</p> <p>24 that had those disappointing results? Was that</p> <p>25 Highland?</p>	<p style="text-align: right;">Page 163</p> <p>1 ALAN JOHNSON</p> <p>2 A. I believe – I believe – I believe it</p> <p>3 was Highland as well, yes.</p> <p>4 Q. And do you think that when a company</p> <p>5 fails, that that's a factor that a decision maker</p> <p>6 should take into account when deciding whether or</p> <p>7 not to forgive loans?</p> <p>8 Is that part of the financial</p> <p>9 condition that we described earlier?</p> <p>10 A. Absolutely, the condition of the</p> <p>11 company, it's both income, capital, and the</p> <p>12 importance of achieving those goals as part of</p> <p>13 forgiving absolutely should be considered.</p> <p>14 MR. MORRIS: I've forgotten if I've</p> <p>15 gone through 2017 yet.</p> <p>16 Does anybody recall?</p> <p>17 All right. We'll do it again.</p> <p>18 MS. CANTY: This is 2017 on the</p> <p>19 screen.</p> <p>20 MR. MORRIS: Right. But I have – all</p> <p>21 right. I'll just do it again then.</p> <p>22 Michael starts objecting as asked and</p> <p>23 answered, I'll get the hint.</p> <p>24 Q. Mr. Johnson, take a look at the first</p> <p>25 paragraph.</p>
<p style="text-align: right;">Page 164</p> <p>1 ALAN JOHNSON</p> <p>2 Do you see that that – under the</p> <p>3 section "Notes and Other Amounts Due From</p> <p>4 Affiliates," describes loans between Highland and</p> <p>5 HCMFA in 2017?</p> <p>6 A. Yes.</p> <p>7 Q. Is there anything in that paragraph</p> <p>8 that states or suggests that Highland agreed to</p> <p>9 forgive in whole or in part any loan it ever</p> <p>10 extended to HCMFA?</p> <p>11 A. No.</p> <p>12 Q. Looking at the next paragraph, next</p> <p>13 point, do you see that the next paragraph concerns</p> <p>14 loans that Highland extended to NexPoint?</p> <p>15 A. Yes.</p> <p>16 Q. Is there anything in that paragraph</p> <p>17 that states or suggests that Highland has agreed</p> <p>18 to forgive in whole or in part any note that it</p> <p>19 ever – any loan it ever extended to NexPoint?</p> <p>20 A. No.</p> <p>21 Q. All right.</p> <p>22 Looking at the next paragraph, do you</p> <p>23 see the next paragraph describes loans between</p> <p>24 Highland and HCRE Partners, LLC?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 165</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Is there anything in that paragraph</p> <p>3 that states or suggests that Highland has agreed</p> <p>4 to forgive in whole or in part any loan it ever</p> <p>5 extended to HCRE Partners, LLC?</p> <p>6 A. No.</p> <p>7 Q. The next paragraph relates to loans</p> <p>8 between Highland and Highland Capital Management</p> <p>9 Services, Inc.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Is there anything in that paragraph</p> <p>13 that states or suggests that Highland has agreed</p> <p>14 to forgive in whole or in part any loan it ever</p> <p>15 extended to Highland Capital Management Services,</p> <p>16 Inc.?</p> <p>17 A. No.</p> <p>18 Q. The next paragraph relates to</p> <p>19 Mr. Dondero.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And do you see that it states that</p> <p>23 Mr. Dondero didn't obtain any new loans from</p> <p>24 Highland in 2017?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 166</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And do you see that –</p> <p>3 MR. MORRIS: Michael, I'm boring you,</p> <p>4 because you should be asking as asked and</p> <p>5 answered because there's that \$14.5 million</p> <p>6 number that I know Mr. Johnson wrote down,</p> <p>7 right? So we have done this before. Okay?</p> <p>8 Let's go to the 2018 audited</p> <p>9 financials.</p> <p>10 MS. CANTY: This is Exhibit 34.</p> <p>11 MR. MORRIS: Thank you very much.</p> <p>12 (Exhibit 34, Highland's audited</p> <p>13 financial statements for December 31, 2018,</p> <p>14 was marked for identification at this time.)</p> <p>15 MR. MORRIS: And if we can go to the</p> <p>16 first page.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. Do you see that this is a – the first</p> <p>19 page of Highland's audited financial statements</p> <p>20 for the period ending December 31, 2018?</p> <p>21 A. Yes.</p> <p>22 MR. MORRIS: Before we go to – before</p> <p>23 we go to the affiliate loans, can we just</p> <p>24 turn to the – I think it's the first</p> <p>25 substantive page, the balance sheet.</p>	<p style="text-align: right;">Page 167</p> <p>1 ALAN JOHNSON</p> <p>2 Yes, stop right there.</p> <p>3 Q. Do you see – do you see the balance</p> <p>4 sheet, sir?</p> <p>5 A. Yes.</p> <p>6 Q. Do you see that near the bottom</p> <p>7 there's a line item showing notes and other</p> <p>8 amounts due from affiliates?</p> <p>9 A. Oh, yeah – I'm sorry – yes.</p> <p>10 Q. And do you see that Highland has</p> <p>11 carried on its balance sheet \$173.4 million in</p> <p>12 notes and other amounts due from affiliates?</p> <p>13 A. Yes.</p> <p>14 Q. Do you understand that the affiliates</p> <p>15 are owned and controlled by Mr. Dondero?</p> <p>16 A. Owned and controlled? I think</p> <p>17 Mr. Okada owned some of – he certainly controlled</p> <p>18 them. I don't know if he had 100 percent</p> <p>19 ownership of all of them. He certainly controlled</p> <p>20 the affiliates we're talking about.</p> <p>21 Q. At the time that you prepared your</p> <p>22 report, did you know that Highland's affiliates</p> <p>23 owed it \$174 million as of the end of 2018?</p> <p>24 A. I don't think I was aware of that, no.</p> <p>25 Q. Is that a fact that you would have</p>
<p style="text-align: right;">Page 168</p> <p>1 ALAN JOHNSON</p> <p>2 wanted to be aware of before you prepared your</p> <p>3 report?</p> <p>4 A. I'm not sure. I'm not sure.</p> <p>5 Q. Well, I think you testified that if</p> <p>6 you were advising a decision maker, you would</p> <p>7 advise them to try to obtain as much information</p> <p>8 as they could concerning any loans that had been</p> <p>9 extended by the employer to or for the benefit of</p> <p>10 the executive, correct?</p> <p>11 A. That is correct.</p> <p>12 Q. And is there any reason for you to</p> <p>13 believe that this \$173.4 million didn't relate to</p> <p>14 loans that were made by the employer to or for the</p> <p>15 benefit of the executive and Mr. Okada?</p> <p>16 MR. AIGEN: Objection, form.</p> <p>17 A. Yeah, I don't – at least that</p> <p>18 174 million would say they're notes from</p> <p>19 affiliates, but the affiliates is also the</p> <p>20 businesses.</p> <p>21 So I'm not – I certainly would want</p> <p>22 to be aware of that. Whether it would have</p> <p>23 changed my report, I'd have to – I'd have to</p> <p>24 think about.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 169</p> <p>1 ALAN JOHNSON</p> <p>2 But you weren't told about the</p> <p>3 totality of the loans, correct?</p> <p>4 A. I did not know the totality, no.</p> <p>5 Q. Did you know that more than 15 percent</p> <p>6 of Highland's assets were tied up in notes and</p> <p>7 other amounts due from affiliates?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. I did not know that.</p> <p>10 Q. Is that a fact that you would have</p> <p>11 liked to have known about before you issued your</p> <p>12 report?</p> <p>13 A. As I answered before, I'm not sure.</p> <p>14 I'm not sure.</p> <p>15 Q. Do you think this is a fact that the</p> <p>16 decision maker should have known about before he</p> <p>17 or she entered into the forgiveness agreement?</p> <p>18 A. I think – as I testified before, I</p> <p>19 think the decision makers certainly understand the</p> <p>20 totality of the loans that are potentially being</p> <p>21 forgiven, absolutely.</p> <p>22 Q. Do you think the decision maker could</p> <p>23 have done his or her job without knowing that the</p> <p>24 employer had extended over \$173 million to the</p> <p>25 executive before entering into the agreement?</p>

<p style="text-align: right;">Page 170</p> <p>1 ALAN JOHNSON</p> <p>2 MR. AIGEN: Objection, form.</p> <p>3 A. Well, I think – at least I</p> <p>4 understand, the way it's stated here in the</p> <p>5 financials, those are to the businesses.</p> <p>6 So I think the – a decision maker</p> <p>7 should know, you know, the totality of the loans</p> <p>8 being forgiven and the decision maker probably</p> <p>9 should have some idea of the various – as I</p> <p>10 testified earlier, about the financial condition</p> <p>11 of the company, which would include these notes</p> <p>12 from affiliates.</p> <p>13 MR. MORRIS: Let's – can we scroll</p> <p>14 down a page or two?</p> <p>15 Okay. Stop right – a little</p> <p>16 further – no, go to the top of this page.</p> <p>17 Q. Do you see that this page is the</p> <p>18 consolidated income statement?</p> <p>19 A. Yes.</p> <p>20 Q. And you're familiar with income</p> <p>21 statements. Is that right?</p> <p>22 A. Yes.</p> <p>23 MR. MORRIS: Okay. Can we go to the</p> <p>24 bottom, please?</p> <p>25 Q. Do you see that in the year before</p>	<p style="text-align: right;">Page 171</p> <p>1 ALAN JOHNSON</p> <p>2 bankruptcy, the net loss attributable to Highland</p> <p>3 was more than \$73 million, at the bottom of the</p> <p>4 page?</p> <p>5 A. Yes.</p> <p>6 Q. Is that a fact that you knew of at the</p> <p>7 time that you prepared your report?</p> <p>8 A. I did not.</p> <p>9 Q. Is that a fact that you would have</p> <p>10 liked to have known about before you prepared your</p> <p>11 report?</p> <p>12 A. I would have liked to have seen all of</p> <p>13 these financial statements before I prepared my</p> <p>14 report, absolutely.</p> <p>15 Q. Is the fact that Highland lost</p> <p>16 \$73 million in 2018 relevant to your analysis at</p> <p>17 all?</p> <p>18 A. I'd have to think about it, but I</p> <p>19 certainly would have wanted to know about it.</p> <p>20 Q. And you were told by Mr. Dondero that</p> <p>21 the forgiveness agreement was entered into in</p> <p>22 either December of 2018 or January or February of</p> <p>23 2019, correct?</p> <p>24 A. It's in my report. I can't remember</p> <p>25 if it was late '17 or '18 or late '18 and '19.</p>
<p style="text-align: right;">Page 172</p> <p>1 ALAN JOHNSON</p> <p>2 Sitting here, I don't recall which, but it was</p> <p>3 told a time frame. It was either late one year or</p> <p>4 early the next. I don't recall the –</p> <p>5 Q. We're not going to put it back up on</p> <p>6 the screen, but I'll just try to refresh your</p> <p>7 recollection that on page 6 of your report, you</p> <p>8 had stated, "I understand from Mr. Dondero that</p> <p>9 the 2018 loans that are the subject of this suit</p> <p>10 were modified by an agreement in late 2018 or</p> <p>11 early 2019."</p> <p>12 Does that refresh your recollection as</p> <p>13 to the timing of the purported agreement that was</p> <p>14 described to you?</p> <p>15 A. Yes, I think that's right, yep.</p> <p>16 Q. And do you understand that this</p> <p>17 \$74 million loss relates to the period ending in</p> <p>18 December 2018?</p> <p>19 A. Yes.</p> <p>20 Q. And do you think the decision maker</p> <p>21 should have known about the financial condition of</p> <p>22 the company when he or she entered into the</p> <p>23 agreement on behalf of Highland in late 2018 or</p> <p>24 early 2019?</p> <p>25 A. The decision maker should have had an</p>	<p style="text-align: right;">Page 173</p> <p>1 ALAN JOHNSON</p> <p>2 idea about the condition of the company,</p> <p>3 absolutely.</p> <p>4 Q. Do you have any reason to believe that</p> <p>5 the decision maker had any information about the</p> <p>6 financial condition of the company before agreeing</p> <p>7 on behalf of Highland to enter into a forgiveness</p> <p>8 of loans with the potential value of 40 to</p> <p>9 \$50 million?</p> <p>10 A. I have no information about that.</p> <p>11 MR. MORRIS: Can we go back to the</p> <p>12 balance sheet for a second?</p> <p>13 Q. Do you see how the assets exceed the</p> <p>14 liabilities and there's partners' capital of about</p> <p>15 \$371 million?</p> <p>16 A. Yes.</p> <p>17 Q. That partners' capital assumes that</p> <p>18 the value of the notes and other amounts due and</p> <p>19 affiliates equals \$173.4 million, correct?</p> <p>20 A. That's one of the assumptions, right,</p> <p>21 yes.</p> <p>22 Q. And there's nothing on the balance</p> <p>23 sheet that discloses potential litigation</p> <p>24 liability, correct?</p> <p>25 A. No, there's nothing on here, on the</p>

<p style="text-align: right;">Page 174</p> <p>1 ALAN JOHNSON</p> <p>2 balance sheet, no.</p> <p>3 Q. Did anybody ever give you any</p> <p>4 information about potential litigation risk that</p> <p>5 Highland faced in 2018 and '19?</p> <p>6 A. I think in preparing my report, I was</p> <p>7 aware of litigation around this company. I think</p> <p>8 there had been an arbitration award that was</p> <p>9 outstanding, so I was aware of any significant</p> <p>10 litigation risk and litigation expenses ongoing.</p> <p>11 I was aware of that.</p> <p>12 Q. Okay.</p> <p>13 So is it fair to say that the</p> <p>14 statement of partners' capital on this page, to</p> <p>15 the best of your knowledge, assumes the recovery</p> <p>16 in full – assumes, among other things, the</p> <p>17 recovery in full of the notes and other amounts</p> <p>18 due from affiliates in the amount of</p> <p>19 \$173.4 million?</p> <p>20 A. That's one of the assumptions that</p> <p>21 goes into this balance sheet, yes.</p> <p>22 Q. And is it fair to say that the</p> <p>23 statement of partners' capital doesn't take into</p> <p>24 account at all litigation risk?</p> <p>25 MR. AIGEN: Objection, form.</p>	<p style="text-align: right;">Page 175</p> <p>1 ALAN JOHNSON</p> <p>2 A. That, I don't know. I don't know what</p> <p>3 PwC would have done with the litigation risk.</p> <p>4 But if we're just looking at the line</p> <p>5 items here, I don't see a reserve for litigation,</p> <p>6 but that might be in the footnotes or so forth.</p> <p>7 But as written here, the balance sheet seems to</p> <p>8 suggest that there is no – there's nothing on</p> <p>9 here for litigation risk.</p> <p>10 Q. Okay.</p> <p>11 MR. MORRIS: Can we go to page – I</p> <p>12 think it's 28.</p> <p>13 Q. Amount – you see, "Notes and Other</p> <p>14 Amounts Due From Affiliates"?</p> <p>15 A. Yes.</p> <p>16 Q. There's notes from HCMFA.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. We'll just do it the same way.</p> <p>20 Can you take a look at that paragraph</p> <p>21 and let me know if you see anything in there that</p> <p>22 states or suggests that Highland agreed to forgive</p> <p>23 in whole or in part any loan it ever extended to</p> <p>24 HCMFA?</p> <p>25 A. I don't see that, no.</p>
<p style="text-align: right;">Page 176</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 Same question for the next paragraph,</p> <p>4 can you tell me if you see anything in the second</p> <p>5 paragraph that states or suggests that Highland</p> <p>6 has agreed to forgive in whole or in part any loan</p> <p>7 it ever extended to NexPoint?</p> <p>8 A. I don't – I don't see that there</p> <p>9 either.</p> <p>10 Q. Next paragraph, is there anything in</p> <p>11 the next paragraph that states or suggests that</p> <p>12 Highland has agreed to forgive in whole or in part</p> <p>13 any loan it ever extended to HCRE Partners?</p> <p>14 A. No, I don't see that.</p> <p>15 Q. The next paragraph, is there anything</p> <p>16 in the next paragraph that states or suggests that</p> <p>17 Highland has agreed to forgive in whole or in part</p> <p>18 any note it ever extended to Highland Capital</p> <p>19 Management Services, Inc.?</p> <p>20 A. No, I don't see that.</p> <p>21 Q. And do you see that with respect to</p> <p>22 these four paragraphs, each of them still contains</p> <p>23 as its last sentence the statement that the fair</p> <p>24 value of the partnership's outstanding notes</p> <p>25 receivable approximates the carrying value the</p>	<p style="text-align: right;">Page 177</p> <p>1 ALAN JOHNSON</p> <p>2 notes receivable?</p> <p>3 A. Yes.</p> <p>4 Q. So this is as late as – for the</p> <p>5 financial statements that are dated as of – I'm</p> <p>6 sorry.</p> <p>7 This is – these statements refer –</p> <p>8 withdrawn.</p> <p>9 These statements concern Highland's</p> <p>10 audited financial statements for the period ending</p> <p>11 December 31, 2018, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Let's continue to scroll down.</p> <p>14 Do you see there's a reference to Jim</p> <p>15 Dondero having issued new promissory notes for</p> <p>16 \$14.9 million in 2018?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. So if you add the 14.9 with the</p> <p>19 14.5 that was due – if you could write this</p> <p>20 down – at the end of 2018, that would be a total</p> <p>21 of \$29.4 million.</p> <p>22 Do I have that right?</p> <p>23 A. I believe that's right, yes.</p> <p>24 Q. Okay.</p> <p>25 But at the end of the year, he</p>

<p>Page 178</p> <p>1 ALAN JOHNSON</p> <p>2 actually owed just a hair less than that,</p> <p>3 \$29.2 million.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay.</p> <p>7 Is it fair to conclude that at some</p> <p>8 point in 2018, Mr. Dondero made a modest payment</p> <p>9 of principal and interest against the loans that</p> <p>10 were outstanding to Highland?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. That – that appears what's going on,</p> <p>13 yes.</p> <p>14 Q. And there's certainly nothing in this</p> <p>15 paragraph that states or suggests that Highland</p> <p>16 agreed to forgive in whole or in part any loan it</p> <p>17 ever extended to Mr. Dondero, correct?</p> <p>18 A. That's right.</p> <p>19 Q. And the next paragraph again relates</p> <p>20 to Mr. Okada.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. And there's nothing in that paragraph</p> <p>24 that states or suggests that Mr. Okada had – had</p> <p>25 reached an agreement with Highland on the</p>	<p>Page 179</p> <p>1 ALAN JOHNSON</p> <p>2 forgiveness of any loan extended to him in whole</p> <p>3 or in part?</p> <p>4 A. That's correct.</p> <p>5 MR. MORRIS: Okay. Can we go down to</p> <p>6 the next page, please.</p> <p>7 Q. Okay. And then you have the same</p> <p>8 statement about Dugaboy and the contribution</p> <p>9 agreement.</p> <p>10 Do you see that?</p> <p>11 A. Yes, I see it.</p> <p>12 Q. Is there anything in either paragraph</p> <p>13 that states or suggests that Highland has agreed</p> <p>14 to forgive in whole or in part any loan it ever</p> <p>15 extended to Dugaboy or pursuant to – in</p> <p>16 connection with the contribution agreement?</p> <p>17 A. No.</p> <p>18 Q. Okay.</p> <p>19 Are you familiar with the concept of</p> <p>20 subsequent events?</p> <p>21 A. Sure.</p> <p>22 Q. And what's your understanding of the</p> <p>23 concept of subsequent events for purposes of</p> <p>24 audited financial statements?</p> <p>25 A. In the footnotes, often they'll talk</p>
<p>Page 180</p> <p>1 ALAN JOHNSON</p> <p>2 about events that happen shortly after the end of</p> <p>3 the fiscal year and before the reports or things,</p> <p>4 and usually, they'll appear in the footnotes and</p> <p>5 talk about events that a shareholder should be</p> <p>6 aware of that have happened following the</p> <p>7 financial year end and the issues of the</p> <p>8 financials.</p> <p>9 Q. It's not just the shareholders, it's</p> <p>10 anybody who uses or relies on the financial</p> <p>11 statements should have that information. Is that</p> <p>12 fair?</p> <p>13 MR. AIGEN: Objection.</p> <p>14 A. Anybody who – yeah, well said, anyone</p> <p>15 who relies on it, the subsequent event is</p> <p>16 material – is material enough that you should</p> <p>17 be – you she take into account and be aware of.</p> <p>18 Q. Now, if Mr. Dondero had entered into</p> <p>19 the forgiveness agreement in late 2018, would you</p> <p>20 have expected it to have been described in the</p> <p>21 section that we just looked at?</p> <p>22 MR. AIGEN: Objection, form.</p> <p>23 A. I would hope it would show up in the</p> <p>24 reported financials. I would hope that would</p> <p>25 happen, yes.</p>	<p>Page 181</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Why is it your hope that it would</p> <p>3 happen?</p> <p>4 A. Well, as I testified earlier, I</p> <p>5 recommend to clients, and sometimes they follow,</p> <p>6 to document things in writing, and if it's in</p> <p>7 writing, it would usually or hopefully would show</p> <p>8 up in the audited financial statements.</p> <p>9 Q. Would you always recommend your client</p> <p>10 to inform its auditors of any agreement relating</p> <p>11 to the forgiveness of loans made to executives?</p> <p>12 MR. AIGEN: Objection, form.</p> <p>13 A. I would certainly recommend – if it</p> <p>14 was an issue, I would certainly recommend to</p> <p>15 clients that they report to the finance team,</p> <p>16 which would then talk to the auditors, about how</p> <p>17 to disclose material loans to executives and if</p> <p>18 they were going to be forgiven.</p> <p>19 MR. MORRIS: Okay. Can we scroll</p> <p>20 down – I apologize, I don't know the page</p> <p>21 number, but there's a section of this report</p> <p>22 concerning subsequent events.</p> <p>23 Okay. Right there.</p> <p>24 Q. Do you see on page 38 of Highland's</p> <p>25 2018 audited financials there's Section 15</p>

<p style="text-align: right;">Page 182</p> <p>1 ALAN JOHNSON</p> <p>2 entitled, "Subsequent Events"?</p> <p>3 A. Yes.</p> <p>4 MR. MORRIS: Okay. If we could just</p> <p>5 show Mr. Johnson that portion and continue</p> <p>6 on to page 39.</p> <p>7 Q. Okay. And do you see – now that</p> <p>8 you've got the whole section on the screen, do you</p> <p>9 see in the next-to-the-last paragraph there's a</p> <p>10 reference to HCMFA having issued promissory notes</p> <p>11 to the partnership in the aggregate amount of</p> <p>12 \$7.4 million during the course of 2019 through the</p> <p>13 date of the report?</p> <p>14 A. Yeah, yes. Yes, I see that.</p> <p>15 Q. Is it your understanding with 30 years</p> <p>16 in the industry that the auditors would require</p> <p>17 the disclosure of material transactions that occur</p> <p>18 after the date of the report but prior to its</p> <p>19 issuance?</p> <p>20 MR. AIGEN: Objection, form.</p> <p>21 A. I'm not familiar with the exact</p> <p>22 accounting rules of what qualifies as subsequent</p> <p>23 event, but my expectation would be that material</p> <p>24 events that occurred after the end of the year</p> <p>25 would be disclosed in a section like this before</p>	<p style="text-align: right;">Page 183</p> <p>1 ALAN JOHNSON</p> <p>2 the financials came out.</p> <p>3 Q. If Mr. Dondero had entered into his</p> <p>4 forgiveness agreement in early 2019, would you</p> <p>5 have expected that agreement to have been</p> <p>6 disclosed in the subsequent event section of the</p> <p>7 audited financial report?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. As I said earlier, I would hope it</p> <p>10 would be – I would hope that it would be</p> <p>11 documented and I would hope that if it was – in</p> <p>12 this case, was significant, that it would have</p> <p>13 been informed and probably shown up in a section</p> <p>14 like this.</p> <p>15 Q. But you don't see it show up in a</p> <p>16 section like this, do you, sir?</p> <p>17 A. I don't see it here, no.</p> <p>18 MR. MORRIS: Can we go to the, I</p> <p>19 think, second or third page of the document?</p> <p>20 Yeah, the signature page, yeah.</p> <p>21 Q. Do you see that that's</p> <p>22 PricewaterhouseCoopers' signature on the audited</p> <p>23 financial report for the period ending</p> <p>24 December 31, 2018?</p> <p>25 A. You mean, '19 – nor '18 – I'm</p>
<p style="text-align: right;">Page 184</p> <p>1 ALAN JOHNSON</p> <p>2 sorry – yes, I see PwC.</p> <p>3 Q. Right.</p> <p>4 And do you see it's dated June 3,</p> <p>5 2019?</p> <p>6 A. Yes.</p> <p>7 Q. And is it your understanding that the</p> <p>8 subsequent event section covers the period</p> <p>9 January 1, 2019 until June 3, 2019?</p> <p>10 A. I'm not – again, I'm not an expert on</p> <p>11 exactly the timing of the subsequent events, but</p> <p>12 it – it would have – it covers some of the</p> <p>13 period – some or all the period before they</p> <p>14 issued. I don't know when they have a cutoff, but</p> <p>15 it covers certainly at period after the end of the</p> <p>16 year before these are finalized.</p> <p>17 Q. Okay. So just to shift gears – you</p> <p>18 can take this down, please.</p> <p>19 Just a few more questions and we will</p> <p>20 have a short break for lunch, and I hope I won't</p> <p>21 have a lot more after that, just to give you a</p> <p>22 sense of where we are.</p> <p>23 We just saw, based on the 2018 audited</p> <p>24 financials, that as of the end of that year,</p> <p>25 Mr. Dondero had loans outstanding of approximately</p>	<p style="text-align: right;">Page 185</p> <p>1 ALAN JOHNSON</p> <p>2 \$29.4 million, at least according to the audited</p> <p>3 financial statements, right?</p> <p>4 A. I think that's true from Highland. I</p> <p>5 don't know if that included the different</p> <p>6 affiliates, but I think that's an accurate figure</p> <p>7 from Highland.</p> <p>8 Q. And do you understand that Mr. Dondero</p> <p>9 has borrowed money from other affiliates as well?</p> <p>10 A. I believe that's true, yes.</p> <p>11 Q. Do you have any understanding of the</p> <p>12 magnitude of his borrowing from those affiliates?</p> <p>13 A. I believe in this case there's, I</p> <p>14 believe, something like 40 to \$50 million at</p> <p>15 stake, but I don't know the interplay of the</p> <p>16 different – the different amounts.</p> <p>17 Q. Just maybe I'm confused, but are you</p> <p>18 talking about the money loaned from Highland to</p> <p>19 affiliates or are you talking about money loaned</p> <p>20 from affiliates to Mr. Dondero?</p> <p>21 A. I – Mr. Dondero owes – that he owes,</p> <p>22 if I'm phrasing it correctly.</p> <p>23 Q. All right. Look, I don't want to</p> <p>24 confuse this, so let's try and keep this simple.</p> <p>25 We just saw in the 2018 audit report</p>

<p style="text-align: right;">Page 186</p> <p>1 ALAN JOHNSON</p> <p>2 that as of the end of the year, he personally had</p> <p>3 obligations to Highland of \$29.4 million, right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay.</p> <p>6 And there was nothing in the audited</p> <p>7 financial statements that suggested that any</p> <p>8 portion of that was subject to forgiveness,</p> <p>9 correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay.</p> <p>12 And you're aware that Highland was a</p> <p>13 debtor in bankruptcy. Is that right?</p> <p>14 A. It went into bankruptcy. I don't</p> <p>15 recall the date of the filing, but it certainly</p> <p>16 went into bankruptcy.</p> <p>17 Q. Did you – did you – do you know –</p> <p>18 are you aware that it filed for bankruptcy in</p> <p>19 October of 2019.</p> <p>20 A. That's the time frame. That's what I</p> <p>21 believed, yes.</p> <p>22 Q. Just a few months after</p> <p>23 PricewaterhouseCoopers signed off on the 2018</p> <p>24 audit, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 187</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Do you know if Mr. Dondero or anyone</p> <p>3 acting on his behalf ever informed the bankruptcy</p> <p>4 court that some or all of the loans were subject</p> <p>5 to forgiveness?</p> <p>6 A. That, I don't know.</p> <p>7 Q. Did you – did you ask anybody?</p> <p>8 A. No.</p> <p>9 Q. If you were advising a client – if</p> <p>10 you were advising a debtor in bankruptcy – no –</p> <p>11 withdrawn.</p> <p>12 If you were advising the maker of</p> <p>13 certain notes that were held by a debtor in</p> <p>14 bankruptcy, would you advise that client to tell</p> <p>15 the Court of any agreements that existed that –</p> <p>16 pursuant to which the notes might be forgiven?</p> <p>17 MR. AIGEN: Objection, form.</p> <p>18 A. I would certainly – if it wasn't</p> <p>19 obvious already, I would have certainly advised</p> <p>20 the client to inform whoever if there are terms</p> <p>21 that would be favorable to them, absolutely.</p> <p>22 Q. And why would you do that?</p> <p>23 A. Well, if I was an executive or an</p> <p>24 entity that had forgiveness provisions that might</p> <p>25 benefit me and someone else who's not a banker or</p>
<p style="text-align: right;">Page 188</p> <p>1 ALAN JOHNSON</p> <p>2 bankruptcy judge wasn't aware of it, I would</p> <p>3 suggest that they inform them rapidly that these</p> <p>4 favorable provisions were in place.</p> <p>5 Q. Can you think of any reason why the</p> <p>6 executive wouldn't disclose the favorable</p> <p>7 provisions that were in place?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. Having seen some bankruptcies, I think</p> <p>10 people forget, people make bad decisions. In the</p> <p>11 chaotic situations that happen, people often</p> <p>12 ignore things. But I – the most logical one</p> <p>13 would be the confusion or chaos.</p> <p>14 Q. Let me give you a hypothetical:</p> <p>15 There's an executive who owes a bankrupt entity</p> <p>16 \$30 million in its individual capacity, and the</p> <p>17 debtor discloses in its disclosure statement and</p> <p>18 its plan of reorganization its intention to</p> <p>19 collect that \$30 million as part of its plan of</p> <p>20 reorganization.</p> <p>21 If the executive doesn't stand up and</p> <p>22 say, Hold your horses, I've got an agreement</p> <p>23 pursuant to which those notes might be forgiven,</p> <p>24 and only makes that disclosure after litigation is</p> <p>25 commenced, in your experience as an executive</p>	<p style="text-align: right;">Page 189</p> <p>1 ALAN JOHNSON</p> <p>2 compensation consultant, would you question</p> <p>3 whether there was really an agreement in the first</p> <p>4 place?</p> <p>5 MR. AIGEN: Objection, form.</p> <p>6 A. Of course I would question it, and I</p> <p>7 often question clients about decisions that I</p> <p>8 wished they hadn't made, but yeah, certainly, I</p> <p>9 would question it.</p> <p>10 Q. And what if you knew in the</p> <p>11 hypothetical that the individual was represented</p> <p>12 by multiple law firms, would that cause you to</p> <p>13 question it even further?</p> <p>14 MR. AIGEN: Objection, form.</p> <p>15 A. No, I would expect in a situation like</p> <p>16 that, he would be represented by a bunch of law</p> <p>17 firms, but I would certainly question that. It</p> <p>18 seems convenient. That doesn't mean it's not</p> <p>19 true, though, which I often find clients that make</p> <p>20 very unfortunate decisions, so – but I would</p> <p>21 certainly question it.</p> <p>22 Q. Okay. Just a few more questions</p> <p>23 before we break.</p> <p>24 So we spent a lot of time, and I</p> <p>25 really appreciate your patience, Mr. Johnson,</p>

<p>Page 190</p> <p>1 ALAN JOHNSON</p> <p>2 going through many of Highland's audited financial</p> <p>3 statements, but I just want to know, with the</p> <p>4 caveat that you're relying on only what I showed</p> <p>5 you, with that caveat, would you agree with me</p> <p>6 that based on our review Highland has not forgiven</p> <p>7 a loan to anyone in the world since around 2009?</p> <p>8 A. Yeah, that's what it appeared from the</p> <p>9 financials, I guess.</p> <p>10 The only thing that makes me pause is</p> <p>11 I'd want to look at the -- again, the similar</p> <p>12 documents for the affiliates and see if there's</p> <p>13 stuff in there as well. But in the documents that</p> <p>14 you showed, that appeared to be, you know, what is</p> <p>15 recorded in these financials.</p> <p>16 Q. And Highland -- the -- Highland</p> <p>17 capital Management, L.P. is the only payee on the</p> <p>18 notes that you're aware of, correct?</p> <p>19 A. I believe so. I believe that's right.</p> <p>20 Q. And Highland Capital Management, L.P.</p> <p>21 was the only entity that was in bankruptcy. Is</p> <p>22 that right?</p> <p>23 A. I believe that's right.</p> <p>24 MR. AIGEN: Objection to form.</p> <p>25 Q. And you're not aware that Highland has</p>	<p>Page 191</p> <p>1 ALAN JOHNSON</p> <p>2 an ownership interest in any of the makers under</p> <p>3 any of the notes at issue here, correct?</p> <p>4 A. That, you're getting -- I'm not sure I</p> <p>5 understand -- ownership -- that, I don't know.</p> <p>6 Q. Okay. Okay.</p> <p>7 But we can agree that, based at least</p> <p>8 on Highland's audited financial statements, you're</p> <p>9 comfortable concluding that Highland hasn't</p> <p>10 forgiven a loan to anybody or any entity since</p> <p>11 2009, correct?</p> <p>12 A. That's the only thing, and the things</p> <p>13 you showed me have been disclosed, that's right.</p> <p>14 Q. And based on what I showed you, you're</p> <p>15 comfortable in concluding that the largest loan</p> <p>16 that Highland ever forgave was \$500,000. Is that</p> <p>17 fair?</p> <p>18 A. That's what it appears, that's right.</p> <p>19 Q. Okay.</p> <p>20 And based on what I showed you, you're</p> <p>21 comfortable excluding that Highland has never</p> <p>22 forgiven a loan to Mr. Dondero, correct, or at</p> <p>23 least through 2008?</p> <p>24 A. And as reported in the financials,</p> <p>25 that appears to be correct, yes.</p>
<p>Page 192</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And based on the information that I've</p> <p>3 given you and the financials that we looked at,</p> <p>4 you're comfortable concluding that at no time</p> <p>5 since at least 2008 has Highland ever forgiven in</p> <p>6 whole or in part any loan that it ever extended to</p> <p>7 any affiliate, right?</p> <p>8 MR. AIGEN: Objection to form.</p> <p>9 A. That's -- that's what's in the</p> <p>10 financials, yes.</p> <p>11 MR. MORRIS: Okay. So it's 1 o'clock.</p> <p>12 Let's break until 1:30. And I hope, you</p> <p>13 know, I have another 60 or 90 minutes.</p> <p>14 Thank you very much.</p> <p>15 (Luncheon recess taken from 1:02 p.m.</p> <p>16 until 1:32 p.m.)</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 193</p> <p>1 ALAN JOHNSON</p> <p>2 AFTERNOON SESSION</p> <p>3 (Time noted: 1:32 p.m.)</p> <p>4 BY MR. MORRIS:</p> <p>5 Q. Good afternoon, Mr. Johnson.</p> <p>6 A. Hello.</p> <p>7 Q. Did you speak with anybody during the</p> <p>8 break about the substance of your testimony today?</p> <p>9 A. No.</p> <p>10 MR. MORRIS: Okay. I'd like to put up</p> <p>11 on the screen a document that has been</p> <p>12 premarked as Exhibit 70 -- you know what, I</p> <p>13 apologize, not 70, 73.</p> <p>14 (Exhibit 73 Exhibit 73, Demonstrative,</p> <p>15 was marked for identification at this time.)</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Mr. Johnson, are you able to view the</p> <p>18 document that's been premarked as Exhibit 33</p> <p>19 that's up on the screen?</p> <p>20 A. Yes. Yes, I can.</p> <p>21 Q. So I'm going to represent to you that</p> <p>22 this is a -- this is what we call a "demonstrative</p> <p>23 exhibit," right?</p> <p>24 This isn't a document that was</p> <p>25 prepared in the ordinary course of business. It's</p>

<p style="text-align: right;">Page 194</p> <p>1 ALAN JOHNSON</p> <p>2 a summary of other information that we've produced</p> <p>3 in this litigation, and I will represent to you</p> <p>4 that we have produced in this litigation, among</p> <p>5 other things, bank statements that show the</p> <p>6 transfer of money on behalf of Mr. Dondero against</p> <p>7 a couple of outstanding notes.</p> <p>8 And, you know, Mr. Dondero's counsel</p> <p>9 can, you know, take the documents that were</p> <p>10 produced with this to make sure that it's</p> <p>11 accurate, but I believe it to be accurate, and I</p> <p>12 just want to ask you some questions about this –</p> <p>13 about the information that's contained in this</p> <p>14 document.</p> <p>15 I assume you've never seen this</p> <p>16 before, right?</p> <p>17 A. I don't – I may have seen something</p> <p>18 similar. I don't believe I've seen this exact</p> <p>19 thing, no.</p> <p>20 Q. Were you – do you remember before we</p> <p>21 looked back and there was that \$14.9 million loan</p> <p>22 that was reflected in the – in the financials?</p> <p>23 A. Yes.</p> <p>24 Q. And I'll represent to you that's</p> <p>25 what's the restructured note in Column C and D.</p>	<p style="text-align: right;">Page 195</p> <p>1 ALAN JOHNSON</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 And do you recall from the financials</p> <p>6 that in 2018, Mr. Dondero had borrowed an</p> <p>7 additional \$14 million and change?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 I'll represent to you that the</p> <p>11 January 18, 2018 note in the principal amount of</p> <p>12 \$7.9 million was among the new loans that he</p> <p>13 obtained in 2018.</p> <p>14 Were you ever informed that in 2017,</p> <p>15 '18, and '19, Mr. Dondero was making payments of</p> <p>16 principal and interest due on loans that he had</p> <p>17 obtained from Highland?</p> <p>18 A. I don't think I discussed that with</p> <p>19 anybody. I think I had noticed that – these loan</p> <p>20 amounts changing around, that something was going</p> <p>21 on in terms of payment, but I don't think I</p> <p>22 discussed that with anybody.</p> <p>23 Q. Before completing your report, would</p> <p>24 you have liked to have known about Mr. Dondero's</p> <p>25 payment history, if any?</p>
<p style="text-align: right;">Page 196</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yeah, that would have been something I</p> <p>3 would have liked to have known, yes.</p> <p>4 Q. Because that would relate to the whole</p> <p>5 concept of whether or not there was a prior course</p> <p>6 of forgiveness. Is that right?</p> <p>7 A. I would – yeah, that would have</p> <p>8 been – that would have been helpful to know.</p> <p>9 Q. I mean, it's – you wouldn't dispute</p> <p>10 that if, in fact, this chart is correct and</p> <p>11 Mr. Dondero was making payments in 2017, '18, and</p> <p>12 '19 against those notes, that those notes were not</p> <p>13 likely to be subject to any forgiveness agreement,</p> <p>14 correct?</p> <p>15 MR. AIGEN: Objection, form.</p> <p>16 A. As I testified before, you could have</p> <p>17 a loan forgiveness that you would make payments</p> <p>18 on. It really would depend on the circumstances</p> <p>19 and what you thought the probability of the</p> <p>20 forgiveness happening, but answering your</p> <p>21 question, yes, I would have liked to have known</p> <p>22 about this.</p> <p>23 Q. According to this chart, if you just</p> <p>24 focus – you see the Column G, "Total Received in</p> <p>25 Respect of Retired Notes"?</p>	<p style="text-align: right;">Page 197</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 And do you see the total is</p> <p>5 approximately \$23.7 million?</p> <p>6 A. Yes.</p> <p>7 Q. If you exclude the first three</p> <p>8 payments that were made in 2017 and '18, they</p> <p>9 total about \$3.3 million or \$3.4 million.</p> <p>10 Is my math roughly correct?</p> <p>11 A. Yes, it looks that way.</p> <p>12 Q. Okay.</p> <p>13 So is it fair then to just – if you</p> <p>14 deduct that from the total, to say that</p> <p>15 Mr. Dondero made principal and interest payments</p> <p>16 against those two notes in 2019 in excess of</p> <p>17 \$20 million?</p> <p>18 A. That looks correct, yes.</p> <p>19 Q. Okay.</p> <p>20 Now, do you see the last payment was</p> <p>21 made, if you look at the Row 16, on December 23,</p> <p>22 2019?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 And do you understand that that's</p>

<p>Page 198</p> <p>1 ALAN JOHNSON</p> <p>2 after the petition date?</p> <p>3 A. Yes, that would be.</p> <p>4 Q. And according to this chart anyway, in</p> <p>5 Column B, the payment that was made on that date</p> <p>6 was approximately \$783,000?</p> <p>7 A. Yes.</p> <p>8 Q. And that money was applied to</p> <p>9 outstanding principal and interest that was due</p> <p>10 under the January 18, 2018 note.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 And do you see how the principal</p> <p>15 balance of \$7.9 million was paid exactly as of</p> <p>16 December 23, 2019?</p> <p>17 A. I'm sorry, I don't understand. The</p> <p>18 7.9 was –</p> <p>19 Q. Was the principal amount of the note,</p> <p>20 right?</p> <p>21 And I'll represent to you that the</p> <p>22 January '18 note was given by Mr. Dondero to</p> <p>23 Highland in exchange for 17. – for a \$7.9 million</p> <p>24 loan on the same day. Okay?</p> <p>25 A. Okay.</p>	<p>Page 199</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And do you see in Column G, it shows</p> <p>3 that once the portion of the payment was applied</p> <p>4 to the January 2018 note, the total that was</p> <p>5 applied was about 319,000 and change?</p> <p>6 A. Yes. Okay.</p> <p>7 Q. And then there's an asterisk in</p> <p>8 Column H next to that total received on that date.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 And if you look at the footnote, it</p> <p>13 says the difference between the total paid on</p> <p>14 December 23, 2019 and the amount applied to the</p> <p>15 January 18, 2018 note was applied in three</p> <p>16 different ways.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you see that it was applied</p> <p>20 against principal and interest due on three other</p> <p>21 notes that Mr. Dondero took in 2018?</p> <p>22 A. Yes.</p> <p>23 Q. Were you aware, until I showed you</p> <p>24 this, that Mr. Dondero had made payments of</p> <p>25 principal and interest against the notes that he</p>
<p>Page 200</p> <p>1 ALAN JOHNSON</p> <p>2 contends are subject to the forgiveness agreement?</p> <p>3 A. I don't think I was aware of that.</p> <p>4 Q. Is that a fact that you would have</p> <p>5 liked to have known before you completed your</p> <p>6 report?</p> <p>7 A. I would have probably liked to have</p> <p>8 known that, yes.</p> <p>9 Q. And why is that?</p> <p>10 A. The statement I made in the report</p> <p>11 around the practice of the company to forgive</p> <p>12 loans, I would have had to perhaps rethought that.</p> <p>13 This would have been – this would have been</p> <p>14 information that I would have liked to have known,</p> <p>15 yes.</p> <p>16 Q. In fact, this page shows that, you</p> <p>17 know, if we exclude the payment made in late 2017,</p> <p>18 from December 2018 to December 2019, Mr. Dondero</p> <p>19 paid approximately \$23-and-a-half million again</p> <p>20 principal and interest due on 5 different notes.</p> <p>21 Have I characterized that fairly based</p> <p>22 on this chart?</p> <p>23 A. I think you may have double counted in</p> <p>24 your arithmetic, but the point is he made</p> <p>25 significant payments against principal and</p>	<p>Page 201</p> <p>1 ALAN JOHNSON</p> <p>2 interest.</p> <p>3 Q. Okay. I don't want to double count.</p> <p>4 Let me try and do it again.</p> <p>5 Do you see the total Dondero payment</p> <p>6 amount in Column B is \$24.143 million.</p> <p>7 A. Yes.</p> <p>8 Q. If we simply deduct from that</p> <p>9 \$677,000, do you come out to roughly</p> <p>10 \$23-and-a-half million?</p> <p>11 A. Yes, that's right. That's right.</p> <p>12 Q. And that \$23-and-a-half million was</p> <p>13 paid in the 370-day period between December 18,</p> <p>14 2018 and December 23, 2019, correct?</p> <p>15 A. I don't want to be a stickler here,</p> <p>16 but if you look to the payment amount of</p> <p>17 24 million, I think you were trying to say that</p> <p>18 the end of '18-'19, so you'd subtract those first</p> <p>19 three payments in that Column B, I think, which</p> <p>20 gets you to about \$20 million.</p> <p>21 So it looks like in '19 – it's north</p> <p>22 of \$20 million.</p> <p>23 Q. Okay.</p> <p>24 And if we add the payments that were</p> <p>25 made on December 18, 2018 and December 19, 2018,</p>

<p style="text-align: right;">Page 202</p> <p>1 ALAN JOHNSON</p> <p>2 you come up with about 23 to \$23-and-a-half</p> <p>3 million, right?</p> <p>4 A. Something like that, that's right.</p> <p>5 Q. And that's about a one-year period</p> <p>6 that straddles the petition date, to the best of</p> <p>7 your knowledge, right?</p> <p>8 A. Yes. Yes, it does.</p> <p>9 Q. And so those payments, according to</p> <p>10 this chart – and, again, I'm asking you to assume</p> <p>11 the accuracy of this chart – according to this</p> <p>12 chart, for the approximately one-year period from</p> <p>13 December 2018 to December 2019, Mr. Dondero made</p> <p>14 principal and interest payments of approximately</p> <p>15 23 to \$23-and-a-half million against 5 different</p> <p>16 promissory notes that were held by Highland,</p> <p>17 correct?</p> <p>18 A. Yes, I believe that's true.</p> <p>19 Q. And is it fair to say that that</p> <p>20 information conflicts with the concept of Highland</p> <p>21 having a practice of forgiving loans?</p> <p>22 MR. AIGEN: Objection, form.</p> <p>23 A. Well, as I said earlier, it doesn't</p> <p>24 mean that the loans weren't forgivable. It means</p> <p>25 he made payments against loans that may have been</p>	<p style="text-align: right;">Page 203</p> <p>1 ALAN JOHNSON</p> <p>2 subject to a – you know, a forgiveness agreement,</p> <p>3 which, as I testified earlier, you know, could</p> <p>4 happen, but it would certainly be a fact you'd</p> <p>5 want to – you know, you'd want to consider.</p> <p>6 Q. And tell me the understanding – your</p> <p>7 opinion as to the circumstances under which you</p> <p>8 think a maker under notes would rationally make a</p> <p>9 payment of principal and interest against notes</p> <p>10 that were the subject of a forgiveness agreement?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. Well, I think, as I testified earlier,</p> <p>13 I think someone would think to themselves, what is</p> <p>14 the likelihood of those notes being forgiven?</p> <p>15 If they believe they're not likely to</p> <p>16 be forgiven, and if they're a senior executive of</p> <p>17 the company and the company perhaps needs the</p> <p>18 money, they might make those payments. A rational</p> <p>19 executive or borrower could make those payments</p> <p>20 believing that, perhaps, the likelihood of the</p> <p>21 things being forgiven is not high and/or the</p> <p>22 company needs the money.</p> <p>23 Q. Did – did anybody give you any</p> <p>24 explanation as to why Mr. Dondero made</p> <p>25 approximately \$23-and-a-half million of payments</p>
<p style="text-align: right;">Page 204</p> <p>1 ALAN JOHNSON</p> <p>2 against premium – against principal and interest</p> <p>3 due on these 5 notes?</p> <p>4 A. No, they did not.</p> <p>5 Q. To the best of your knowledge and</p> <p>6 understanding was Mr. Dondero in control of</p> <p>7 Highland throughout that period December 2018</p> <p>8 until the end of 2019?</p> <p>9 A. I'm not – I'm not sure about what</p> <p>10 happened in bankruptcy, but certainly from the</p> <p>11 period up until the filing of the bankruptcy, he</p> <p>12 was in control.</p> <p>13 Q. Okay.</p> <p>14 Do you know – if you look at the</p> <p>15 restructure note, the January 18, 2018 note, and</p> <p>16 the notes that are referred to in Rows 21, 22, and</p> <p>17 23, are you able to identify which of them, if</p> <p>18 any, are subject to the modification agreement</p> <p>19 described in your report?</p> <p>20 A. I cannot identify them, no.</p> <p>21 Q. So you don't know which, if any, were</p> <p>22 the subject – were subject to the agreement.</p> <p>23 Do I have that right?</p> <p>24 A. I can't identify them, no.</p> <p>25 MR. MORRIS: Okay. Can we go back to</p>	<p style="text-align: right;">Page 205</p> <p>1 ALAN JOHNSON</p> <p>2 Mr. Johnson's report, Exhibit 62?</p> <p>3 And if we can go to page 3, please.</p> <p>4 Q. This is the introduction of your</p> <p>5 report, right?</p> <p>6 A. Yes.</p> <p>7 Q. And now that we've done the work we</p> <p>8 have so far today, I'm going to point you to the</p> <p>9 sentence towards the end of the first paragraph</p> <p>10 that says, "Throughout this period, he received</p> <p>11 loans in lieu of additional current compensation."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. And the "he" there refers to</p> <p>15 Mr. Dondero, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Knowing what you know now, do you</p> <p>18 stand by that statement?</p> <p>19 MR. AIGEN: Objection, form.</p> <p>20 MR. MORRIS: Withdrawn.</p> <p>21 Q. Knowing what you know now, do you</p> <p>22 believe that statement is accurate?</p> <p>23 A. I'd have to rethink about it. I</p> <p>24 haven't heard anything that would say what he told</p> <p>25 me was not true.</p>

<p style="text-align: right;">Page 206</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Have you seen any evidence that</p> <p>3 Mr. Dondero ever received a loan in lieu of</p> <p>4 additional current compensation?</p> <p>5 A. Besides his – his assertions to me,</p> <p>6 I've seen no written documentation, no.</p> <p>7 Q. And, in fact, the audited financial</p> <p>8 statements that we looked at did, in fact,</p> <p>9 disclose the loans that were forgiven to the</p> <p>10 individuals that you spoke with, correct?</p> <p>11 MR. AIGEN: Objection, form.</p> <p>12 A. Yes.</p> <p>13 Q. There was nothing in any of the</p> <p>14 audited financial statements that we saw that</p> <p>15 showed that any loan was ever given to Mr. Dondero</p> <p>16 that was forgiven, correct?</p> <p>17 A. In the Highland financials we looked</p> <p>18 at – and I guess when that was asked before, I</p> <p>19 had the caveat around the affiliated companies,</p> <p>20 but in the Highland financials that we went</p> <p>21 through, there was nothing disclosed of that.</p> <p>22 Q. Highland – does the practice of other</p> <p>23 entities in terms – is that – withdrawn.</p> <p>24 When you described the practice, are</p> <p>25 you describing the practice of firms or entities</p>	<p style="text-align: right;">Page 207</p> <p>1 ALAN JOHNSON</p> <p>2 or affiliates other than Highland?</p> <p>3 A. Well, I – in this case, everything is</p> <p>4 kind of inter – intertwined here, so when I talk</p> <p>5 about loans, the loan could have potentially come</p> <p>6 from an affiliate or some other organization since</p> <p>7 these all were co-owned.</p> <p>8 So we went through the Highland thing,</p> <p>9 so the loans to Mr. Dondero could have been made</p> <p>10 by – potentially could have been made by an</p> <p>11 affiliate or some other entity.</p> <p>12 Q. Do you have knowledge of any affiliate</p> <p>13 ever forgiving any loan to Mr. Dondero?</p> <p>14 A. I do not.</p> <p>15 Q. Do you have knowledge of any affiliate</p> <p>16 ever forgiving in whole or in part any loan to</p> <p>17 anyone in the world?</p> <p>18 MR. AIGEN: Objection, form.</p> <p>19 A. I – I don't have any knowledge of</p> <p>20 that either.</p> <p>21 Q. And your report does not depend in any</p> <p>22 way, sir, on whether or not affiliates forgave</p> <p>23 loans to any of its employees, correct?</p> <p>24 MR. AIGEN: Objection to form.</p> <p>25 A. That's correct.</p>
<p style="text-align: right;">Page 208</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Looking at the last sentence, there's</p> <p>3 a reference to company practice.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. That company practice would not</p> <p>7 include the forgiveness of any loans from the year</p> <p>8 2009 until the end of 2018, correct?</p> <p>9 A. None – none of those would have</p> <p>10 been – none of those were disclosed in the</p> <p>11 financials we looked at.</p> <p>12 MR. MORRIS: Can we go to page 6,</p> <p>13 please?</p> <p>14 Q. Yeah, I'm looking at the first</p> <p>15 sentence of the second bullet point: I understand</p> <p>16 from Mr. Dondero that the 2018 loans that are the</p> <p>17 subject of the suit were modified by an agreement</p> <p>18 in late 2018 or early 2019 under which the loans</p> <p>19 would be forgiven upon the sale and over cost of</p> <p>20 substantially of any of three portfolio companies.</p> <p>21 Have I generally categorized that</p> <p>22 statement correctly?</p> <p>23 A. Yes.</p> <p>24 Q. Based on everything that we've talked</p> <p>25 about and looked at today, are you confident that</p>	<p style="text-align: right;">Page 209</p> <p>1 ALAN JOHNSON</p> <p>2 that sentence is accurate?</p> <p>3 Withdrawn.</p> <p>4 Based on everything we've talked about</p> <p>5 and looked at today, are you confident that</p> <p>6 Mr. Dondero accurately disclosed to you the</p> <p>7 subject of this agreement?</p> <p>8 MR. AIGEN: Objection, form.</p> <p>9 A. I'm sorry, could you repeat that?</p> <p>10 Q. Sure.</p> <p>11 Mr. Dondero told you that the 2018</p> <p>12 loans were the subject of a modification</p> <p>13 agreement, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Would you stake your professional</p> <p>16 reputation on the accuracy of what he told you?</p> <p>17 MR. AIGEN: Objection, form.</p> <p>18 A. I – I heard him clearly. I can't</p> <p>19 vouch for his word, but he told me – what is</p> <p>20 written there is what – is what he told me</p> <p>21 happened. And I asked that question.</p> <p>22 Q. I appreciate that.</p> <p>23 So –</p> <p>24 A. I wasn't finished. I'm sorry.</p> <p>25 Q. I apologize.</p>

<p style="text-align: right;">Page 210</p> <p>1 ALAN JOHNSON</p> <p>2 A. So I asked that question, you know,</p> <p>3 pretty specifically, so that – I understood that</p> <p>4 that's what he said.</p> <p>5 And I'm sorry to interrupt you. I'm</p> <p>6 sorry. Go ahead.</p> <p>7 Q. That's okay.</p> <p>8 So what you've reported in this</p> <p>9 sentence is what you were told. Is that fair?</p> <p>10 A. Yes, I was told by Mr. Dondero about</p> <p>11 the modification of the loans.</p> <p>12 Q. And you don't have any information or</p> <p>13 evidence to support that statement other than what</p> <p>14 he told you, correct?</p> <p>15 A. I've seen no other document, no.</p> <p>16 Q. Does the absence of documentation</p> <p>17 cause you to question the reliability of what</p> <p>18 Mr. Dondero told you as described in that</p> <p>19 sentence?</p> <p>20 A. Well, as I testified before, I think</p> <p>21 it certainly would bring it into question, but as</p> <p>22 I testified before, I have other clients that</p> <p>23 don't document important things as well. So it</p> <p>24 would certainly – not the lack of documentation</p> <p>25 would bring it into question, but that doesn't</p>	<p style="text-align: right;">Page 211</p> <p>1 ALAN JOHNSON</p> <p>2 mean it's not – it's not true.</p> <p>3 Q. Would the lack of disclosure to the</p> <p>4 bankruptcy also call it into question –</p> <p>5 MR. AIGEN: Objection to form.</p> <p>6 Q. – in your opinion?</p> <p>7 A. Certainly, as I testified before,</p> <p>8 people often in chaotic situations don't do the</p> <p>9 things that are even to their advantage.</p> <p>10 So certainly that raised – that</p> <p>11 raises questions about, again, did he disclose</p> <p>12 things that may have been even to his advantage in</p> <p>13 a bankruptcy situation.</p> <p>14 Q. Would the existence of the agreement</p> <p>15 be called into question if you assumed that the</p> <p>16 decision maker never told anybody in the world</p> <p>17 that he or she had entered into the agreement on</p> <p>18 behalf of the company?</p> <p>19 MR. AIGEN: Objection, form.</p> <p>20 A. Certainly. The lack of disclosure is</p> <p>21 a reasonable question to ask, Why didn't you</p> <p>22 disclose?</p> <p>23 But as I've said a couple times now,</p> <p>24 that I've got private clients that over time have</p> <p>25 not disclosed things, and as I testified earlier,</p>
<p style="text-align: right;">Page 212</p> <p>1 ALAN JOHNSON</p> <p>2 I admonish them to write things down and disclose</p> <p>3 them, and they often don't.</p> <p>4 Q. Looking back at the document on the</p> <p>5 screen, the next-to-the-last sentence of that</p> <p>6 paragraph says, "Based on interviews from prior</p> <p>7 employees, the use of forgivable loans was a known</p> <p>8 business practice at Highland, and there was a</p> <p>9 clear expectation similar loans would be</p> <p>10 forgiven."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 The prior employees are the four</p> <p>15 people we talked about before, right?</p> <p>16 A. Yes.</p> <p>17 Q. And they told you about the four loans</p> <p>18 that they had that were forgiven in whole or in</p> <p>19 part, correct?</p> <p>20 A. And I would answer that, yes, they</p> <p>21 said it, and Mr. Dondero mentioned it as well.</p> <p>22 Q. And they told that there was a use of</p> <p>23 forgivable loans as a nonbusiness practice at</p> <p>24 Highland, right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 213</p> <p>1 ALAN JOHNSON</p> <p>2 Q. They didn't mention any other entity,</p> <p>3 correct?</p> <p>4 A. That, I don't remember. I don't</p> <p>5 believe so.</p> <p>6 Q. You wrote Highland, right?</p> <p>7 A. Yes.</p> <p>8 Q. And you haven't seen any documents</p> <p>9 that support the known business practice that they</p> <p>10 described for you, correct?</p> <p>11 A. I have seen no written documentation,</p> <p>12 no.</p> <p>13 Q. When you referred to a "clear</p> <p>14 expectation," whose expectation are you referring</p> <p>15 to?</p> <p>16 A. The recipient of the loan, that's what</p> <p>17 I was referring to.</p> <p>18 Q. And when you used the phrase "similar</p> <p>19 loans," do you mean similar to the ones that were</p> <p>20 forgiven by the four employees – the four former</p> <p>21 employees that you interviewed?</p> <p>22 A. I meant just that there was a loan of</p> <p>23 a significant period of time and it would be</p> <p>24 forgiven over time. That's what I was trying to</p> <p>25 get at there.</p>

<p style="text-align: right;">Page 214</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Now that you have seen – withdrawn.</p> <p>3 Now that I have shown you the</p> <p>4 demonstrative exhibit that reflects payments by</p> <p>5 Mr. Dondero against 5 different promissory notes</p> <p>6 in the 12-month period between December '18 and</p> <p>7 December '19, do you believe that he had a clear</p> <p>8 expectation that his loans would be forgiven?</p> <p>9 MR. AIGEN: Objection, form.</p> <p>10 A. I – I don't – I don't – he hasn't</p> <p>11 told me what his expectation – I don't – I would</p> <p>12 just be speculating about what his expectations</p> <p>13 were.</p> <p>14 Q. Well, paying – paying more than</p> <p>15 \$23 million in a 12-month period is inconsistent</p> <p>16 with any expectation that the loans would be</p> <p>17 forgiven.</p> <p>18 Would you give me that?</p> <p>19 MR. AIGEN: Objection, form.</p> <p>20 A. Well, I think I testified before that</p> <p>21 you could forgive – you could make payments</p> <p>22 against the loan if you thought the probability of</p> <p>23 achieving the goals were not highly likely and/or</p> <p>24 the company needed the money.</p> <p>25 So on a private situation, such as</p>	<p style="text-align: right;">Page 215</p> <p>1 ALAN JOHNSON</p> <p>2 this, Mr. Dondero rationally could have said to</p> <p>3 himself, I'll repay the loans because the company</p> <p>4 needs the money and/or the odds of selling one of</p> <p>5 these three assets in a reasonably timely manner</p> <p>6 may be unlikely, but I'm just speculating on what</p> <p>7 he – he may have thought.</p> <p>8 Q. Okay.</p> <p>9 MR. MORRIS: Can we go to page 16,</p> <p>10 please?</p> <p>11 Q. Just to finish this up, in the middle,</p> <p>12 it says, "It is my opinion that the loans provided</p> <p>13 to Mr. Dondero should be considered potential</p> <p>14 deferred compensation as they were similar to</p> <p>15 loans given to other professionals at the firm."</p> <p>16 Have I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. After our questions today and looking</p> <p>19 at the documents is that still your opinion?</p> <p>20 A. Well, I think it goes back to what</p> <p>21 Mr. Dondero told me. If what Mr. Dondero told me</p> <p>22 is accurate, it – his statement continues to be</p> <p>23 true, that these loans were intended to be</p> <p>24 forgiven, and that that would have been similar to</p> <p>25 the other four executives that I interviewed.</p>
<p style="text-align: right;">Page 216</p> <p>1 ALAN JOHNSON</p> <p>2 Q. So that sentence and your opinion is</p> <p>3 dependent 100 percent on the accuracy of what</p> <p>4 Mr. Dondero told you, correct?</p> <p>5 A. If Mr. Dondero, you know, was</p> <p>6 inaccurate, then that sentence will be inaccurate</p> <p>7 as well.</p> <p>8 Q. And is there anything that we looked</p> <p>9 at today, like the financial statements or the</p> <p>10 payment history for the 12-month period from</p> <p>11 December 2018 to December 2019, that calls you to</p> <p>12 question the accuracy of what he told you?</p> <p>13 A. I don't – I don't – I believe it</p> <p>14 still could very well be true, so I don't – I</p> <p>15 don't – I don't believe that – I don't believe I</p> <p>16 would have changed that sentence based on what</p> <p>17 I've heard today.</p> <p>18 Q. Your report refers in several places</p> <p>19 to a founder's premium.</p> <p>20 Do I have that phrased right?</p> <p>21 A. Yes. Yes, it does.</p> <p>22 Q. What's a founder's premium?</p> <p>23 A. In many or most financial services</p> <p>24 companies, founders get paid more than comparable</p> <p>25 executives elsewhere. They're the face of the</p>	<p style="text-align: right;">Page 217</p> <p>1 ALAN JOHNSON</p> <p>2 firm. They have an unusual stature in the</p> <p>3 industry and so forth.</p> <p>4 So when you look at large or outsized</p> <p>5 pay packages, they're often delivered to founders</p> <p>6 of similar financial firms.</p> <p>7 Q. Have you done any analysis to</p> <p>8 determine what the founder's premium would be in</p> <p>9 this case?</p> <p>10 A. I have not.</p> <p>11 Q. You're not offering any opinion as to</p> <p>12 what the founder's premium should be, correct?</p> <p>13 A. I have not done that work, no.</p> <p>14 Q. You haven't attempted to quantify what</p> <p>15 the founder's premium is, correct?</p> <p>16 A. Again, I haven't done that work.</p> <p>17 Q. Is there a particular reason why you</p> <p>18 didn't attempt to quantify or analyze the</p> <p>19 founder's premium that you referred to in your</p> <p>20 report?</p> <p>21 A. Well, when I wrote the report in May,</p> <p>22 I didn't have available some of the things we've</p> <p>23 talked about today, I just didn't feel that that</p> <p>24 was appropriate.</p> <p>25 So I took what I thought was a</p>

<p style="text-align: right;">Page 218</p> <p>1 ALAN JOHNSON</p> <p>2 conservative view of what the market rate with him</p> <p>3 would be, and then it could obviously be</p> <p>4 supplemented at some future point with additional</p> <p>5 information or facts.</p> <p>6 Q. But as you sit here today, you haven't</p> <p>7 done any analysis to try to update your report to</p> <p>8 quantify a founder's premium, correct?</p> <p>9 A. I have not.</p> <p>10 MR. MORRIS: Can we go to page 19 of</p> <p>11 Mr. Johnson's report.</p> <p>12 Q. Right there at the top, you've got</p> <p>13 Exhibit C. That's Mr. Dondero's actual</p> <p>14 compensation for the period 2013 to 2019.</p> <p>15 Do I have that right?</p> <p>16 A. Yes.</p> <p>17 Q. Why did you use that seven-year</p> <p>18 period?</p> <p>19 A. It was after the financial crisis. It</p> <p>20 seemed more stability in the business. It seemed</p> <p>21 like a reasonable period to look at.</p> <p>22 Q. Is there any -- is the decision to use</p> <p>23 the seven-year period from 2018 to 2019 a</p> <p>24 subjective decision that you made on your own?</p> <p>25 A. To be -- I don't remember.</p>	<p style="text-align: right;">Page 219</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Is it fair to say that somebody else</p> <p>3 might differ with you and apply either a 4-year</p> <p>4 period, for example, or a 10-year period?</p> <p>5 A. Reasonable people might have a</p> <p>6 different point of view, yes.</p> <p>7 Q. Did you rely on any particular</p> <p>8 methodology or industry study in reaching your</p> <p>9 decision to use a seven-year period?</p> <p>10 A. No.</p> <p>11 Q. Is there any article that you're aware</p> <p>12 of or any presentation anybody has ever made</p> <p>13 whereby they -- they suggested that when doing an</p> <p>14 analysis of this type, one ought to use a</p> <p>15 seven-year look-back period?</p> <p>16 A. I -- I don't -- I'm not aware of</p> <p>17 any -- any study like that.</p> <p>18 Q. And the reason that the timeline is</p> <p>19 important, of course, is it because you're just</p> <p>20 multiplying the difference between Mr. Dondero's</p> <p>21 compensation as reflected in this chart --</p> <p>22 withdrawn.</p> <p>23 The reason why the time period is</p> <p>24 important, because you're taking the average of</p> <p>25 Mr. Dondero's annual compensation during the</p>
<p style="text-align: right;">Page 220</p> <p>1 ALAN JOHNSON</p> <p>2 seven-year period and comparing it with the</p> <p>3 average for your comps and multiplying it by</p> <p>4 seven, correct?</p> <p>5 A. Well, I'm looking at his average pay</p> <p>6 over the period. I wanted a long enough period to</p> <p>7 be representative and looking at what the market</p> <p>8 rate would have been over that period, so yes, you</p> <p>9 arithmetically will come up with a difference over</p> <p>10 that period.</p> <p>11 Q. And your difference is \$21 million,</p> <p>12 right?</p> <p>13 A. Yes.</p> <p>14 Q. And your difference is \$21 million</p> <p>15 because you compared Mr. Dondero's average of</p> <p>16 \$3 million with what you determined to be the</p> <p>17 industry average of \$6 million, you took the</p> <p>18 difference of 3 and multiplied it by the 7 years</p> <p>19 and you got to \$21 million, correct?</p> <p>20 A. In simple fashion, that's right.</p> <p>21 Q. Is there any other fashion in which my</p> <p>22 description of what you did is incorrect?</p> <p>23 A. No. I think that's accurate, but the</p> <p>24 point was that he had been underpaid from a W-2</p> <p>25 perspective during this period and, you know,</p>	<p style="text-align: right;">Page 221</p> <p>1 ALAN JOHNSON</p> <p>2 the -- anyway, that was the point.</p> <p>3 Q. And if a reasonable mind decided that,</p> <p>4 you know, the look-back period should be a bit</p> <p>5 shorter, only 5 years, then the delta would only</p> <p>6 be \$15 million, right?</p> <p>7 A. Assuming the same facts, the 3 million</p> <p>8 and the 6 million, that's right.</p> <p>9 Q. And if somebody thought it ought to be</p> <p>10 10 years, then the delta would be \$30 million,</p> <p>11 right?</p> <p>12 A. It could be, but I don't know what his</p> <p>13 pay was prior to 2013. Maybe that wouldn't be</p> <p>14 accurate. But yes, assuming the facts are the</p> <p>15 same, that would be -- that would be accurate.</p> <p>16 Q. Okay. But one of the three factors --</p> <p>17 so there are 3 factors in the \$21 million. It's</p> <p>18 Mr. Dondero's average compensation during the</p> <p>19 7-year period, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And it's the industry average as</p> <p>22 you've determined for the seven-year period,</p> <p>23 correct?</p> <p>24 A. Well, just to be picky, it's not the</p> <p>25 industry average. It's what I think the market</p>

<p style="text-align: right;">Page 222</p> <p>1 ALAN JOHNSON</p> <p>2 was for his particular role, which was 6 million,</p> <p>3 but yes, it's 3 million and 6 million.</p> <p>4 Q. Thank you. Thank you for the</p> <p>5 clarification.</p> <p>6 And then the third factor in reaching</p> <p>7 the \$21 million is multiplying the difference</p> <p>8 between those first two numbers by 7, correct?</p> <p>9 A. Exactly.</p> <p>10 Q. And you determined to use 7, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you made that determination based</p> <p>13 on your subjective judgment, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you're not aware of any – any</p> <p>16 guideline, any analysis, any peer-reviewed</p> <p>17 article, any presentation, anything in the world</p> <p>18 that caused you to select 7 years. You just based</p> <p>19 that on your own experience. Is that fair?</p> <p>20 A. That's fair.</p> <p>21 Q. Okay.</p> <p>22 So if you look at the chart, you've</p> <p>23 got three different line items. The first is</p> <p>24 "Highland Capital Management W-2 Income," correct?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 223</p> <p>1 ALAN JOHNSON</p> <p>2 Q. Okay.</p> <p>3 And why did you decide that this</p> <p>4 analysis should incorporate Mr. Dondero's Highland</p> <p>5 Capital Management W-2 income?</p> <p>6 A. That is his reported employee</p> <p>7 compensation.</p> <p>8 Q. The next line relates to NexPoint</p> <p>9 Residential Trust W-2 income.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. You've only included income for 2018.</p> <p>13 Do I have that right?</p> <p>14 A. That's right.</p> <p>15 Q. Why did you decide that it was</p> <p>16 appropriate to include NexPoint Residential Trust</p> <p>17 W-2 income in your analysis?</p> <p>18 A. It was a W-2. I think he was paid as</p> <p>19 an employee, and that should be recognized here.</p> <p>20 Q. And how come you only disclosed the</p> <p>21 income for 2018?</p> <p>22 A. That's the only one we have W-2 for.</p> <p>23 Q. Okay.</p> <p>24 How about NexPoint Advisors' W-2</p> <p>25 income, why did you decide to include that in this</p>
<p style="text-align: right;">Page 224</p> <p>1 ALAN JOHNSON</p> <p>2 analysis?</p> <p>3 A. Again, it was employee income.</p> <p>4 These businesses are so intertwined</p> <p>5 that I included his pay for, you now, his</p> <p>6 activities at NexPoint.</p> <p>7 Q. Okay.</p> <p>8 And did you not go back prior to 2016</p> <p>9 because you didn't have any W-2 income for that</p> <p>10 entity?</p> <p>11 A. Didn't have a W-2 income.</p> <p>12 Q. Do you know if Mr. Dondero received</p> <p>13 any other W-2 income from any other</p> <p>14 Highland-related affiliate?</p> <p>15 A. We were not – I was not aware that</p> <p>16 there was any others.</p> <p>17 Q. If you were aware of other W-2 income</p> <p>18 that Mr. Dondero received from a Highland</p> <p>19 affiliate, would you have included it in this</p> <p>20 analysis?</p> <p>21 A. I would have included it, yes.</p> <p>22 MR. MORRIS: Okay. Let's go down to</p> <p>23 page 21, and if we can go to the bottom of</p> <p>24 the page.</p> <p>25 Q. All right. So correct me if I'm wrong</p>	<p style="text-align: right;">Page 225</p> <p>1 ALAN JOHNSON</p> <p>2 here, but what I think you did is you went and did</p> <p>3 some research and you tried to identify executives</p> <p>4 who had similar responsibilities to Mr. Dondero –</p> <p>5 Mr. Dondero and you reviewed what information was</p> <p>6 in the public domain to try to ascertain what</p> <p>7 their total compensation was for each of the years</p> <p>8 2013 through 2019.</p> <p>9 Is that generally correct?</p> <p>10 A. Yes, that's generally correct.</p> <p>11 Q. And looking at this chart, this chart</p> <p>12 at the bottom of page 21 only relates to 2019.</p> <p>13 Do I have that right?</p> <p>14 A. Yes.</p> <p>15 Q. And you have one, two, three, four,</p> <p>16 five, six, seven comps.</p> <p>17 Do I have that right?</p> <p>18 A. Yes.</p> <p>19 Q. And the first portion of the analysis</p> <p>20 shows the total base salary cash bonus for the</p> <p>21 total amount of total cash that was paid to each</p> <p>22 executive by their employer in 2019. Is that</p> <p>23 right?</p> <p>24 A. That's right.</p> <p>25 Q. Now, Mr. Dondero received</p>

<p style="text-align: right;">Page 226</p> <p>1 ALAN JOHNSON</p> <p>2 substantially more cash than any of these</p> <p>3 executives in 2019, correct?</p> <p>4 A. I don't recall his actual cash in</p> <p>5 2019. That, I don't know, sitting here.</p> <p>6 Q. And then the next part of the analysis</p> <p>7 relates to stock options and restricted shares.</p> <p>8 Let's take them one at a time.</p> <p>9 What are stock options for purposes of</p> <p>10 your analysis?</p> <p>11 A. It's the value of a -- of an award</p> <p>12 made, and this is their disclosed value of the</p> <p>13 ability to exercise a -- a -- an option to</p> <p>14 purchase the company's stock at a fixed price. So</p> <p>15 if on the day of grant the company is trading at</p> <p>16 \$25, you're granted options to purchase the stock</p> <p>17 at \$25.</p> <p>18 You don't have to exercise. The stock</p> <p>19 increases in value at some point within a 10-year</p> <p>20 period, you can exercise those options and realize</p> <p>21 a gain.</p> <p>22 The numbers shown here reflect their</p> <p>23 disclosed value in their proxy statement, so use</p> <p>24 Black-Scholes or some other method to value the</p> <p>25 prospective value of these options.</p>	<p style="text-align: right;">Page 227</p> <p>1 ALAN JOHNSON</p> <p>2 Q. In your expert opinion, is it</p> <p>3 appropriate to include the value of the stock</p> <p>4 options when trying to assess the total</p> <p>5 compensation of an executive comparable to</p> <p>6 Mr. Dondero?</p> <p>7 A. Yes, it would be.</p> <p>8 Q. Did you ask Mr. Dondero or anybody</p> <p>9 acting on his behalf whether he ever received any</p> <p>10 stock options of any kind?</p> <p>11 A. I did not.</p> <p>12 Q. So is it fair to say that your</p> <p>13 analysis does not take into account the value of</p> <p>14 any stock options that Mr. Dondero may have</p> <p>15 received?</p> <p>16 A. I was not aware that he received any,</p> <p>17 so it would not have included it, no.</p> <p>18 Q. And nobody told you that he received</p> <p>19 any, correct?</p> <p>20 A. No.</p> <p>21 Q. And you didn't ask, correct?</p> <p>22 A. I don't recall whether I asked or not,</p> <p>23 but I didn't see it anyway.</p> <p>24 Q. The next column relates to restricted</p> <p>25 shares.</p>
<p style="text-align: right;">Page 228</p> <p>1 ALAN JOHNSON</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. What are restricted shares?</p> <p>5 A. It's the grant of shares with time</p> <p>6 vesting. So you receive \$100,000 worth of stock</p> <p>7 in the company, and then that vests over, say, a</p> <p>8 3- or 4-year period. So it's a fixed number of</p> <p>9 shares that vest on the passage of time.</p> <p>10 Q. And in your professional and expert</p> <p>11 opinion, do you believe that the value of</p> <p>12 restricted shares should be considered when</p> <p>13 assessing the total compensation received by</p> <p>14 executives comparable to Mr. Dondero?</p> <p>15 A. Yes.</p> <p>16 Q. Did you ask Mr. Dondero or anybody</p> <p>17 acting on his behalf whether he had ever received</p> <p>18 restricted shares during the 7-year period you</p> <p>19 were analyzing?</p> <p>20 A. I don't recall asking that, no.</p> <p>21 Q. Did Mr. Dondero or anybody on his</p> <p>22 behalf ever disclose to you any restricted shares</p> <p>23 that Mr. Dondero may have received?</p> <p>24 A. I'm not aware that he received any.</p> <p>25 No one told me anything about it.</p>	<p style="text-align: right;">Page 229</p> <p>1 ALAN JOHNSON</p> <p>2 Q. So is it fair to say that your</p> <p>3 analysis does not take into account any restricted</p> <p>4 shares that Mr. Dondero may have received during</p> <p>5 the 7-year period of your -- of your analysis?</p> <p>6 A. Well, he would have if either options</p> <p>7 were the restricted shares. If they had turned</p> <p>8 into actual shares, they would have shown up in</p> <p>9 his W-2.</p> <p>10 So if there were things that didn't</p> <p>11 show up in his W-2, then yes, I would have been</p> <p>12 unaware of it.</p> <p>13 Q. Okay.</p> <p>14 And is the total long term just the</p> <p>15 addition really of the stock options and the</p> <p>16 restricted shares?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 All right. So let's look at a few</p> <p>20 more documents. I'm almost done here.</p> <p>21 MR. MORRIS: Can we go back up to the</p> <p>22 page with Mr. Dondero's chart, 19.</p> <p>23 Yeah, there we go.</p> <p>24 Q. Okay. So you included the NexPoint</p> <p>25 Residential Trust W-2 income, correct?</p>

<p style="text-align: right;">Page 230</p> <p>1 ALAN JOHNSON</p> <p>2 A. Yes.</p> <p>3 Q. And the only reason that you limited</p> <p>4 yourself to 2018 is because you hadn't found any</p> <p>5 W-2 income related to that entity during your</p> <p>6 diligence, right?</p> <p>7 A. That's right.</p> <p>8 MR. MORRIS: Can we please put up</p> <p>9 what's been marked as Exhibit 67.</p> <p>10 (Exhibit 67, 2019 W-2, was marked for</p> <p>11 identification at this time.)</p> <p>12 BY MR. MORRIS:</p> <p>13 Q. Do you see that this is a 2019 W-2</p> <p>14 made out to Mr. Dondero from NexPoint Residential</p> <p>15 Trust, Inc.?</p> <p>16 A. Yes, yes.</p> <p>17 Q. Okay. And if we go to the bottom of</p> <p>18 the page, do you see it says, "Expert No. 1"?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. This is, in fact, a document that was</p> <p>21 provided to you before you completed your report,</p> <p>22 right?</p> <p>23 A. I believe that that appears to be</p> <p>24 right.</p> <p>25 MR. MORRIS: Okay. Let's go back to</p>	<p style="text-align: right;">Page 231</p> <p>1 ALAN JOHNSON</p> <p>2 the top of the document.</p> <p>3 Q. Do you see that Mr. Dondero had W-2</p> <p>4 income in 2019 of approximately \$1.5 million?</p> <p>5 A. Yes, I believe that's right.</p> <p>6 Q. Okay.</p> <p>7 So for consistency, your report should</p> <p>8 be amended – the chart on paragraph 19 should be</p> <p>9 amended to include the number that's in box 1 of</p> <p>10 the W-2 under W-2 income from NexPoint Residential</p> <p>11 Trust in 2019; correct?</p> <p>12 A. If I've missed it, then it should be</p> <p>13 included, yes.</p> <p>14 MR. MORRIS: Can we go – can we put</p> <p>15 up Exhibit 67-2?</p> <p>16 (Exhibit 67-2, 2017 W-2, was marked</p> <p>17 for identification at this time.)</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Do you see that this is a 2017 W-2</p> <p>20 issued by NexPoint Residential Trust, Inc. to</p> <p>21 Mr. Dondero?</p> <p>22 A. Yes.</p> <p>23 MR. MORRIS: Can we go to the bottom</p> <p>24 of the page?</p> <p>25 Can we just see the Bates number?</p>
<p style="text-align: right;">Page 232</p> <p>1 ALAN JOHNSON</p> <p>2 Oh, hold on, I know what I have to do.</p> <p>3 Yeah, there you go.</p> <p>4 Q. Do you see that it's Bates stamped</p> <p>5 page 937?</p> <p>6 A. Yes, I see that.</p> <p>7 Q. Does that indicate that that document</p> <p>8 was provided to you before you completed your</p> <p>9 report?</p> <p>10 A. I don't know what the Bates number</p> <p>11 means, but I see the 937.</p> <p>12 Q. Well, I'll represent to you, sir, that</p> <p>13 if we went to page 25 of your report, this</p> <p>14 document would be listed among those that you were</p> <p>15 given before you completed your report.</p> <p>16 MR. MORRIS: Can we go back up to the</p> <p>17 top of the document?</p> <p>18 Q. Do you see in Box No. 1, it discloses</p> <p>19 wages of approximately \$625,000?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. And that's the corrected information,</p> <p>22 right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 So looking at this now, in order to be</p>	<p style="text-align: right;">Page 233</p> <p>1 ALAN JOHNSON</p> <p>2 consistent, that \$625,000 should have been</p> <p>3 included in your report in the chart on page 19,</p> <p>4 correct?</p> <p>5 A. I believe that's right.</p> <p>6 Q. Okay.</p> <p>7 So those two entries alone are</p> <p>8 approximately \$2.5 million, or more than</p> <p>9 10 percent of the \$21 million difference that you</p> <p>10 calculated, correct?</p> <p>11 A. Yes, I believe that's right.</p> <p>12 Q. Okay.</p> <p>13 MR. MORRIS: Can we please put up</p> <p>14 Exhibit No. 68?</p> <p>15 (Exhibit 68, compensation and benefit</p> <p>16 statement for 2016, was marked for</p> <p>17 identification at this time.)</p> <p>18 BY MR. MORRIS:</p> <p>19 Q. Okay. So what's on the screen, sir,</p> <p>20 is a compensation and benefit statement that I</p> <p>21 will represent to you was prepared by Highland in</p> <p>22 the ordinary course of its business for years for</p> <p>23 every employee – I think for every employee in</p> <p>24 the organization.</p> <p>25 And if we go down to the bottom, you</p>

<p style="text-align: right;">Page 234</p> <p>1 ALAN JOHNSON</p> <p>2 can see that this document was produced to</p> <p>3 Mr. Dondero's lawyers previously.</p> <p>4 And if we can scroll back up, do you</p> <p>5 see that there's reference in the middle to a 2016</p> <p>6 deferred compensation award?</p> <p>7 MR. AIGEN: Hey, John, I think you</p> <p>8 tried to scroll down to show the Bates</p> <p>9 label, but I don't think it went far enough.</p> <p>10 I just want to write down what the</p> <p>11 Bates label was so I can have it for my</p> <p>12 records.</p> <p>13 MR. MORRIS: Sure.</p> <p>14 MR. AIGEN: Or if you can read it into</p> <p>15 the record, that will work, too.</p> <p>16 MR. MORRIS: Sure.</p> <p>17 It's D-CNL003585.</p> <p>18 MR. AIGEN: Thank you.</p> <p>19 Q. And do you see that he's got total</p> <p>20 compensation listed there of \$2.3 million?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. Okay.</p> <p>23 Do you see that there's a reference to</p> <p>24 a deferred compensation award?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 235</p> <p>1 ALAN JOHNSON</p> <p>2 Q. And that award of \$1.2 million relates</p> <p>3 to 50,000 restricted stock units of NXRT.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. And you testified earlier that</p> <p>7 restricted stock is something that should be taken</p> <p>8 into account when assessing the total compensation</p> <p>9 of an executive, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And NXRT, do you know what that symbol</p> <p>12 represents?</p> <p>13 A. I don't think I've seen that symbol.</p> <p>14 Q. Okay. If I represented to you that it</p> <p>15 is the symbol for the NexPoint Residential Trust</p> <p>16 that we were just looking at – the W-2s that we</p> <p>17 were just looking at, do you think that this</p> <p>18 \$1.2 million should be taken into account in</p> <p>19 Mr. Dondero's 2016 total compensation since it is</p> <p>20 restricted stock units that were given to him in</p> <p>21 that year?</p> <p>22 A. I'd certainly have to consider that,</p> <p>23 yes.</p> <p>24 Q. Okay.</p> <p>25 But you weren't given this</p>
<p style="text-align: right;">Page 236</p> <p>1 ALAN JOHNSON</p> <p>2 information, correct?</p> <p>3 A. I don't think I've seen this.</p> <p>4 Q. Okay.</p> <p>5 MR. MORRIS: Can we please go to</p> <p>6 Exhibit 50, 5-0.</p> <p>7 (Exhibit 50, compensation and benefit</p> <p>8 statement for 2017, was marked for</p> <p>9 identification at this time.)</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. I'll represent to you that this is</p> <p>12 Mr. Dondero's compensation and benefit statement</p> <p>13 for 2017.</p> <p>14 Do you see there's another reference</p> <p>15 to approximately \$1.55 million in restricted stock</p> <p>16 units that were granted to him for the 2017</p> <p>17 performance year?</p> <p>18 A. Yes, I see that.</p> <p>19 Q. And nobody told you that Mr. Dondero</p> <p>20 had received any stock options prior to today,</p> <p>21 correct – withdrawn.</p> <p>22 Nobody told you that Mr. Dondero had</p> <p>23 received restricted stock units of NXRT before</p> <p>24 today, correct?</p> <p>25 A. I was not aware of this when I wrote</p>	<p style="text-align: right;">Page 237</p> <p>1 ALAN JOHNSON</p> <p>2 my report, no.</p> <p>3 Q. You would have – this number –</p> <p>4 withdrawn.</p> <p>5 MR. MORRIS: Can we go to the bottom</p> <p>6 of the page, please?</p> <p>7 Just for the record, this is document</p> <p>8 with Bates No. D-CNL003587.</p> <p>9 And if you can scroll back up.</p> <p>10 Q. If Mr. Dondero received restricted</p> <p>11 stock units of NexPoint Residential Trust in 2017</p> <p>12 for the performance – for his performance during</p> <p>13 that year in an amount of \$1.55 million that's –</p> <p>14 that's compensation that you would have included</p> <p>15 in your report had you known about it at the time,</p> <p>16 correct?</p> <p>17 A. Probably would have, yes.</p> <p>18 MR. MORRIS: Okay. Can we go to</p> <p>19 Exhibit 51, please.</p> <p>20 (Exhibit 51, compensation and benefit</p> <p>21 statement for 2018, was marked for</p> <p>22 identification at this time.)</p> <p>23 MR. MORRIS: Okay. This is</p> <p>24 Mr. Dondero's compensation and benefits</p> <p>25 statement for 2018.</p>

<p style="text-align: right;">Page 238</p> <p>1 ALAN JOHNSON</p> <p>2 If we can go to the bottom.</p> <p>3 And it has Bates No. D-CNL003588.</p> <p>4 And if we can scroll back up, please.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. According to this compensation and</p> <p>7 benefits statement, Mr. Dondero received almost</p> <p>8 \$1.7 million in restricted stock units of NXRT for</p> <p>9 the 2018 performance year.</p> <p>10 Do you see that?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Were you told that Mr. Dondero</p> <p>13 received restricted stock units of NXRT for the</p> <p>14 2018 performance year?</p> <p>15 A. I was not aware of that.</p> <p>16 Q. Had you known that prior to issuing</p> <p>17 your report, would you have included that in your</p> <p>18 assessment of Mr. Dondero's total compensation for</p> <p>19 the year 2018?</p> <p>20 A. I would have looked at those awards,</p> <p>21 yes.</p> <p>22 MR. MORRIS: Let's go to Exhibit 52,</p> <p>23 please.</p> <p>24 (Exhibit 52, compensation and benefits</p> <p>25 statement for 2019, was marked for</p>	<p style="text-align: right;">Page 239</p> <p>1 ALAN JOHNSON</p> <p>2 identification at this time.)</p> <p>3 BY MR. MORRIS:</p> <p>4 Q. And when you say you would have looked</p> <p>5 at the awards, if you assume that they are</p> <p>6 restricted stock units of NexPoint Residential</p> <p>7 Trust, is there any basis on which you would not</p> <p>8 have included those restricted – the value those</p> <p>9 restricted stock units in an analysis of</p> <p>10 Mr. Dondero's total compensation, just as you did</p> <p>11 for the other executives that are your comps?</p> <p>12 A. I want to know what the terms of the</p> <p>13 awards were. I don't know how NXRT was valued, so</p> <p>14 I would want to – more information about – this</p> <p>15 is as employee statement, so I don't know how</p> <p>16 accurate it would be, but I would certainly – if</p> <p>17 I'd have been aware of this, would certainly want</p> <p>18 to consider what those awards were worth, you</p> <p>19 know, what a comparable like-to-like comparison</p> <p>20 would be.</p> <p>21 Q. Okay.</p> <p>22 The next document that we have on the</p> <p>23 screen is Exhibit 52, which is Mr. Dondero's</p> <p>24 compensation and benefits statement for 2019.</p> <p>25 And if we go to the bottom, we will</p>
<p style="text-align: right;">Page 240</p> <p>1 ALAN JOHNSON</p> <p>2 see it has Bates No. D-CNL003589.</p> <p>3 Do you see that, sir?</p> <p>4 A. Yes.</p> <p>5 Q. And if we scroll back up, you'll see</p> <p>6 that Mr. Dondero received in 2019 a deferred</p> <p>7 compensation award of approximately \$5.6 million</p> <p>8 in the form of various grants of what appear to be</p> <p>9 stock?</p> <p>10 A. Yes, the number on the page is 5</p> <p>11 million 6, yes.</p> <p>12 Q. And you weren't told that Mr. Dondero</p> <p>13 had received any grants of stock as part of a</p> <p>14 deferred compensation award in 2019, correct?</p> <p>15 A. I was not aware of that, no.</p> <p>16 Q. But had you – had you known about the</p> <p>17 deferred compensation award, you certainly would</p> <p>18 have asked the questions, right?</p> <p>19 A. I would have asked questions, yes.</p> <p>20 Q. And is it fair to say as you sit here</p> <p>21 right now that just as you included the restricted</p> <p>22 stock and the stock options in your comps, you</p> <p>23 would have included this \$5.6 million in your</p> <p>24 analysis of Mr. Dondero's 2019 compensation?</p> <p>25 MR. AIGEN: Objection, form.</p>	<p style="text-align: right;">Page 241</p> <p>1 ALAN JOHNSON</p> <p>2 A. I – I don't know what amount of the 5</p> <p>3 million 6. I think, as I said before, I'd want to</p> <p>4 know more about these entities and what – what –</p> <p>5 you know, how they were valued and so forth, but</p> <p>6 I'd certainly want to be aware of it in coming up</p> <p>7 with an aggregated figure for its compensation.</p> <p>8 Q. As you sit here right now, based on</p> <p>9 the documents we've looked at so far, your</p> <p>10 \$21 million is subject to some questions. Is that</p> <p>11 fair?</p> <p>12 A. It's fair. Certainly, the cash</p> <p>13 amounts that he was paid should be added back, and</p> <p>14 then we have these series of deferred comp awards</p> <p>15 that I'd have to consider how do we include some</p> <p>16 or all of it value.</p> <p>17 Q. But you weren't told about any of</p> <p>18 these awards before you prepared your report,</p> <p>19 correct?</p> <p>20 A. I was not aware of them.</p> <p>21 Q. And you don't have any information as</p> <p>22 you sit here today that you're aware of that</p> <p>23 relates to any of these awards except what I'm</p> <p>24 showing you, right?</p> <p>25 A. I'm not aware of the terms of these</p>

<p style="text-align: right;">Page 242</p> <p>1 ALAN JOHNSON</p> <p>2 awards, no.</p> <p>3 MR. MORRIS: Okay. Let's go to</p> <p>4 Exhibit 67-3, which is Mr. Dondero's 2013</p> <p>5 Form 1040.</p> <p>6 (Exhibit 67-3, 2013 Form 1040, was</p> <p>7 marked for identification at this time.)</p> <p>8 MR. MORRIS: And if we can go to PDF</p> <p>9 page 279 of 335.</p> <p>10 BY MR. MORRIS:</p> <p>11 Q. Do you see you received Mr. Dondero's</p> <p>12 Forms 1040 for the period 2013 through I think</p> <p>13 either 2019 or 2020, right?</p> <p>14 A. Yes, I believe so.</p> <p>15 Q. Did you take the time to look at the</p> <p>16 statements supporting his 1040s that relate to</p> <p>17 wages received?</p> <p>18 A. I went through it, yes.</p> <p>19 Q. Do you see on statement 12 there's a</p> <p>20 reference to Highland Capital Management PTE LTD?</p> <p>21 A. I'm sorry, where are we on the page?</p> <p>22 Q. We're looking at the top. It's</p> <p>23 statement 12.</p> <p>24 A. Okay.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 243</p> <p>1 ALAN JOHNSON</p> <p>2 And do you see there's a reference to</p> <p>3 Highland Capital Management PTE LTD?</p> <p>4 A. I see that, yes.</p> <p>5 Q. Do you have any idea what that entity</p> <p>6 is?</p> <p>7 A. I don't – I don't know.</p> <p>8 Q. Have you ever heard of it before?</p> <p>9 A. I don't believe so.</p> <p>10 Q. In your review of Mr. Dondero's tax</p> <p>11 returns, did you ever notice that he had received</p> <p>12 W-2 income from that firm?</p> <p>13 A. If I looked at it, I don't recall.</p> <p>14 Q. Based on the name of the entity by</p> <p>15 itself, is it fair to conclude in the absence of</p> <p>16 contrary information that any W-2 income he</p> <p>17 received from an entity called Highland Capital</p> <p>18 Management PTE LTD should have been included in</p> <p>19 your report?</p> <p>20 MR. AIGEN: Objection, form.</p> <p>21 A. That – that, I don't know. That, I</p> <p>22 don't know.</p> <p>23 Q. All right. Mr. Johnson, I'm going to,</p> <p>24 you know, save us all the pain and tell you that</p> <p>25 if we looked at Mr. Dondero's Forms 1040 for the</p>
<p style="text-align: right;">Page 244</p> <p>1 ALAN JOHNSON</p> <p>2 period from 2013 to 2019, Mr. Dondero reported</p> <p>3 receiving W-2 income from Highland Capital</p> <p>4 Management PTE LTD in every single year.</p> <p>5 And I will also represent to you that</p> <p>6 the aggregate amount of those payments were</p> <p>7 approximately a half a million dollars, and that</p> <p>8 if we added up the value of the payment – the W-2</p> <p>9 payments from Highland Capital Management PTE LTD,</p> <p>10 along with the NexPoint Residential Trust W-2</p> <p>11 income that we looked at, along with the value of</p> <p>12 the stock options, that we would come up with a</p> <p>13 number in excess of \$13 million, with that</p> <p>14 representation, how comfortable are you that your</p> <p>15 \$21 million accurately states the difference</p> <p>16 between what Mr. Dondero received in the 7-year</p> <p>17 period from 2013 through 2019 and what he would</p> <p>18 have received if he had received the comparable</p> <p>19 market compensation for similarly situated</p> <p>20 executives?</p> <p>21 MR. AIGEN: Objection, form.</p> <p>22 A. I think you pointed out some</p> <p>23 adjustments that would need to be made. I think,</p> <p>24 as I testified before, I would need to go back and</p> <p>25 look at the value of those awards.</p>	<p style="text-align: right;">Page 245</p> <p>1 ALAN JOHNSON</p> <p>2 I think of the \$8 million you referred</p> <p>3 to, I think about 5 or 6 million was made in the</p> <p>4 year of bankruptcy, which I would certainly put</p> <p>5 probably, in the work we do, put a question mark</p> <p>6 next to, but you certainly pointed out some</p> <p>7 omissions that should be included.</p> <p>8 So the \$21 million analysis would</p> <p>9 certainly look like it would get somewhat smaller,</p> <p>10 but I would – sitting here, the 8 million you</p> <p>11 mentioned, that looks like about 4 or 5 million</p> <p>12 was a deferred comp award made in the year of</p> <p>13 bankruptcy, which I'd probably put a question mark</p> <p>14 around.</p> <p>15 But it does look like, to some degree,</p> <p>16 the \$21 million difference that I've calculated</p> <p>17 would be reduced.</p> <p>18 Q. Have you done any analysis to</p> <p>19 determine whether or not Mr. Dondero passed</p> <p>20 through any personal expenses through the</p> <p>21 business?</p> <p>22 A. That, I don't know.</p> <p>23 Q. Is that something that you would</p> <p>24 consider if you had the information available, you</p> <p>25 know, whether or not he passed personal expenses</p>

<p style="text-align: right;">Page 246</p> <p>1 ALAN JOHNSON</p> <p>2 on through the business?</p> <p>3 A. Well, it should be – it should be</p> <p>4 disclosed in his W-2, if he's – if he's filling</p> <p>5 out a W-2 or other income, but if it wasn't</p> <p>6 reported on his taxes or there's a W-2, I wouldn't</p> <p>7 know about it.</p> <p>8 Q. I appreciate that you wouldn't know</p> <p>9 about it.</p> <p>10 I'm just asking you if you were trying</p> <p>11 to assess the value that Mr. Dondero received from</p> <p>12 serving as Highland's CEO, would you take into</p> <p>13 account, if you had the information available and</p> <p>14 you could quantify it, the value of any personal</p> <p>15 expenses that – that he ran through the business?</p> <p>16 A. I would be reluctant to do that just</p> <p>17 because many private business owners do a similar</p> <p>18 thing, so it would not be fair to Mr. Dondero or</p> <p>19 any other executive in his position to only do one</p> <p>20 side of that trade.</p> <p>21 So if I said \$6 million was the</p> <p>22 appropriate level that many private business</p> <p>23 owners do similar things, so if there's something</p> <p>24 particularly unusual, I might want to be aware of</p> <p>25 it, but if it was the normal course of what</p>	<p style="text-align: right;">Page 247</p> <p>1 ALAN JOHNSON</p> <p>2 business owners often do, I probably wouldn't</p> <p>3 include it.</p> <p>4 Q. Your comparable individuals in 2019,</p> <p>5 are those CEOs of public companies?</p> <p>6 A. The real comparison here, the</p> <p>7 \$6 million figure, is primarily not CEOs of public</p> <p>8 companies. The small asset management companies</p> <p>9 that we list are not – neither paid that high in</p> <p>10 the roles, as we say in the report, are</p> <p>11 meaningfully different.</p> <p>12 I think the real reference point is</p> <p>13 people who manage similar assets mostly in the</p> <p>14 private domain. So I think many of those CEOs,</p> <p>15 founders, owners, would – the issue we're talking</p> <p>16 about, would pass on allegedly personal expenses</p> <p>17 through the business.</p> <p>18 Q. How about – we talked about this a</p> <p>19 little bit earlier.</p> <p>20 You're aware that Highland doesn't</p> <p>21 have an ownership interest in HCRE or Highland</p> <p>22 Capital Management Fund Advisors or NexPoint or</p> <p>23 Highland Capital Management Service, right?</p> <p>24 A. I'm sorry, are you saying Highland</p> <p>25 doesn't have an ownership interest?</p>
<p style="text-align: right;">Page 248</p> <p>1 ALAN JOHNSON</p> <p>2 Is that what you're saying? I just</p> <p>3 want to make sure I heard correctly.</p> <p>4 Q. Yes.</p> <p>5 A. I believe that's true yes.</p> <p>6 Q. And you're also aware that Mr. Dondero</p> <p>7 directly or indirectly owns at least the majority</p> <p>8 interest in each of these four entities, right?</p> <p>9 A. I'm aware of the NexPoint and</p> <p>10 Advisors. The real estate, I'm not sure I've ever</p> <p>11 heard about the ownership, but certainly, at least</p> <p>12 several of those, he's the controlling or sole</p> <p>13 owner.</p> <p>14 Q. Are you aware that – that Highland</p> <p>15 Capital Management – withdrawn.</p> <p>16 Are you aware that Highland provided</p> <p>17 services to Highland Capital Fund Advisor as</p> <p>18 NexPoint pursuant to certain shared services</p> <p>19 agreements?</p> <p>20 A. I was aware of that.</p> <p>21 Q. And are you aware that until sometime</p> <p>22 in late 2020, HCMFA and NexPoint made payments to</p> <p>23 Highland in exchange for those services?</p> <p>24 A. I think I was aware of that, yes.</p> <p>25 Q. Are you aware that when Mr. Dondero</p>	<p style="text-align: right;">Page 249</p> <p>1 ALAN JOHNSON</p> <p>2 was in control, Highland also provided services to</p> <p>3 Highland Capital Management Services, Inc. as well</p> <p>4 as HCRE Partners, LLC?</p> <p>5 A. I think I was aware of that as well.</p> <p>6 Q. And were you aware that neither of</p> <p>7 those entities had any shared services agreement</p> <p>8 with Highland?</p> <p>9 A. That, I'm not sure I was aware of.</p> <p>10 Q. Are you aware that neither of those</p> <p>11 entities ever provided any cash payment to</p> <p>12 Highland for services rendered?</p> <p>13 A. I have no knowledge of that.</p> <p>14 Q. Is it fair to say that your analysis</p> <p>15 doesn't take into account the value that HCRE and</p> <p>16 HCMS received by getting services from Highland</p> <p>17 without paying for them?</p> <p>18 MR. AIGEN: Objection, form.</p> <p>19 A. I am not familiar with what services</p> <p>20 they received, so I don't – I don't know how to</p> <p>21 handle that.</p> <p>22 Q. Let's assume that HCMS and HCRE</p> <p>23 received back-office services similar to what</p> <p>24 HCMFA and NexPoint contracted and paid for. Okay?</p> <p>25 Can we – can we make that assumption?</p>

<p style="text-align: right;">Page 250</p> <p>1 ALAN JOHNSON</p> <p>2 A. Okay.</p> <p>3 Q. Okay.</p> <p>4 And let's assume that neither of those</p> <p>5 entities, HCRE or HCMS, ever paid any money to</p> <p>6 Highland in exchange for those services. Okay?</p> <p>7 A. Okay.</p> <p>8 Q. As the person in control of those</p> <p>9 entities, do you think it would be appropriate to</p> <p>10 try to quantify the benefit that Mr. Dondero</p> <p>11 received through his ownership of HCRE and HCMS as</p> <p>12 a result of Highland's providing services to those</p> <p>13 entities without compensation?</p> <p>14 MR. AIGEN: Objection, form.</p> <p>15 A. At a high level, I think if Highland</p> <p>16 was providing meaningful services that had value</p> <p>17 to those entities and Highland wasn't getting</p> <p>18 something back in return, you would want to try to</p> <p>19 understand how big that was.</p> <p>20 Q. Okay.</p> <p>21 But that's not an issue that you</p> <p>22 analyzed, correct?</p> <p>23 A. It is not.</p> <p>24 Q. And your \$21 million delta doesn't</p> <p>25 take into account that issue at all, correct?</p>	<p style="text-align: right;">Page 251</p> <p>1 ALAN JOHNSON</p> <p>2 A. It does not take that into account,</p> <p>3 no.</p> <p>4 Q. And you didn't do any diligence to try</p> <p>5 to determine whether or not Highland had provided</p> <p>6 services without receiving payment in return with</p> <p>7 respect to HCMS and HCRE, correct?</p> <p>8 A. I did no such analysis.</p> <p>9 Q. Okay.</p> <p>10 MR. MORRIS: Can we take -- it's 2:45.</p> <p>11 Let's take a 5-minute break, a short break.</p> <p>12 I may be done.</p> <p>13 (Recess taken from 2:45 p.m. until</p> <p>14 2:50 p.m.)</p> <p>15 MR. MORRIS: I have no further</p> <p>16 questions of this witness at this time.</p> <p>17 Thank you very much, Mr. Johnson, for</p> <p>18 your time and your patience.</p> <p>19 THE WITNESS: Thank you, and also say</p> <p>20 hi to Laura Johnson for me.</p> <p>21 MR. MORRIS: I sure will. I'm sure</p> <p>22 I'll be speaking to her this afternoon.</p> <p>23 MR. AIGEN: Alan, you're not</p> <p>24 completely done yet. I have one or two</p> <p>25 questions I wanted to ask you, just to clear</p>
<p style="text-align: right;">Page 252</p> <p>1 ALAN JOHNSON</p> <p>2 something up.</p> <p>3 THE WITNESS: Okay.</p> <p>4 EXAMINATION</p> <p>5 BY MR. AIGEN:</p> <p>6 Q. You talked about the founder's premium</p> <p>7 earlier.</p> <p>8 Can you just again explain what that</p> <p>9 means?</p> <p>10 A. Founder's premium in a private firm</p> <p>11 like this is the amount that a founder typically</p> <p>12 gets paid in excess of what a non-founder or</p> <p>13 ordinary executive gets paid.</p> <p>14 Q. And I know you don't have a specific</p> <p>15 number but do you have an opinion on what the</p> <p>16 general founder's premium would be in this</p> <p>17 marketplace?</p> <p>18 MR. MORRIS: Objection to the form of</p> <p>19 the question.</p> <p>20 A. A premium could be very significant.</p> <p>21 It could be two or even three times what the --</p> <p>22 what a typical executive might get paid.</p> <p>23 Q. And what's that based on?</p> <p>24 A. Just working with these</p> <p>25 founder-dominated firms, they often get paid an</p>	<p style="text-align: right;">Page 253</p> <p>1 ALAN JOHNSON</p> <p>2 awful lot for -- for the role they play.</p> <p>3 MR. AIGEN: That's all I have.</p> <p>4 MR. MORRIS: Just a couple of</p> <p>5 questions, Mr. Johnson.</p> <p>6 EXAMINATION (CONTINUED)</p> <p>7 BY MR. MORRIS:</p> <p>8 Q. You didn't make any disclosure</p> <p>9 concerning a founder's premium, correct?</p> <p>10 A. No, I have not done that work.</p> <p>11 Q. You did not conduct any analysis</p> <p>12 concerning a founder's premium, correct?</p> <p>13 A. I have not.</p> <p>14 MR. AIGEN: Object to form.</p> <p>15 Q. And your report contains no opinion as</p> <p>16 to what you believe the founder's premium should</p> <p>17 be in this case, correct?</p> <p>18 A. That is correct.</p> <p>19 MR. MORRIS: Okay. No further</p> <p>20 questions. Thank you very much.</p> <p>21 THE WITNESS: Thank you.</p> <p>22 MR. MORRIS: Have a good day. Take</p> <p>23 care all.</p> <p>24 (Whereupon the proceedings were</p> <p>25 concluded at 2:53 p.m.)</p>

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Page 254

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I, ALAN JOHNSON, the witness herein,

do hereby certify that the foregoing

testimony of the pages of this deposition to

be a true and correct transcript, subject to

the corrections, if any, shown on the

attached page.

ALAN JOHNSON

Subscribed and sworn to before me this

_____ day of _____, _____.

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Page 255

CERTIFICATE

I, AMY A. RIVERA, a Certified Shorthand

Reporter, Registered Professional Reporter,

Certified LiveNote Reporter, and Notary Public of

the State of New York, do hereby certify that prior

to the commencement of the examination ALAN JOHNSON,

was duly sworn by me to testify the truth, the whole

truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is

a true and accurate transcript of the testimony as

taken stenographically by and before me at the time,

place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a

relative nor employee nor attorney nor counsel of

any of the parties to this action, and that I am

neither a relative nor employee of such attorney or

counsel, and that I am not financially interested in

the action.

Notary Public of the State of New York

My commission expires December 6, 2021

License No. XI00939

Dated: November 2, 2021

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Page 256

INDEX

WITNESS	PAGE
ALAN JOHNSON	
By Mr. Morris	6, 253
By Mr. Aigen	252

EXHIBITS

NUMBER	DESCRIPTION	PAGE
Exhibit 34	Highland's audited	166
	financial statements	
	for December 31, 2018	
Exhibit 50	Compensation and	236
	benefit statement for	
	2017	
Exhibit 51	Compensation and	237
	benefit statement for	
	2018	
Exhibit 52	Compensation and	239
	benefits statement for	
	2019	
Exhibit 62	Expert report	76

1

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3

4

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6

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13

14

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17

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19

20

21

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23

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25

Page 257

EXHIBITS (Continued)

NUMBER	DESCRIPTION	PAGE
Exhibit 63	Highland's 2008 audited	119
	financial statements	
Exhibit 64	Highland's audited	123
	financial statements	
	for December 31, 2009	
Exhibit 65	Highland's audited	126
	financial statements	
	for December 31, 2010	
Exhibit 67	2019 W-2	230
Exhibit 67-2	2017 W-2	231
Exhibit 67-3	2013 Form 1040	242
Exhibit 68	Compensation and	233
	benefit statement for	
	2016	
Exhibit 69	Highland's audited	129
	financial statements	
	for December 31, 2014	
Exhibit 70	Highland's audited	133
	financial statements	
	for December 31, 2015	
Exhibit 73	Demonstrative	193

1
2 ERRATA SHEET FOR THE TRANSCRIPT OF:
3 Case Name: In Re: HIGHLAND CAPITAL MANAGEMENT,
4 L.P.
5 Dep. Date: November 2, 2021
6 Deponent: Alan Johnson
7 Reason codes:
8 1. To clarify the record.
9 2. To conform to the facts.
10 3. To correct transcription errors.
11 Page ____ Line ____ Reason ____
12 From ____ to ____
13 Page ____ Line ____ Reason ____
14 From ____ to ____
15 Page ____ Line ____ Reason ____
16 From ____ to ____
17 Page ____ Line ____ Reason ____
18 From ____ to ____
19 Page ____ Line ____ Reason ____
20 From ____ to ____
21
22 ALAN JOHNSON
23 Subscribed and sworn to before me
24 this day of 2021.
25

\$	\$29.2 178:3	1	19 7:12 16:16 80:7 171:25 174:5 183:25 195:15 196:12 201:21,25 214:7 218:10 229:22 231:8 233:3	163:15,18 164:5 165:24 195:14 196:11 197:8 200:17 231:16,19 236:8,13, 16 237:11
\$1.2 235:2,18	\$29.4 177:21 185:2 186:3	1 108:12 121:2,16,24 122:21 125:13 184:9 192:11 230:18 231:9 232:18	1:02 192:15	2018 7:12 15:9,11 27:9 42:10 92:14 98:23 103:2 108:19 120:3 166:8,13,20 167:23 171:16,22 172:9,10,18,23 174:5 177:11,16,20 178:8 180:19 181:25 183:24 184:23 185:25 186:23 195:6, 11,13 198:10 199:4, 15,21 200:18 201:14, 25 202:13 204:7,15 208:8,16,18 209:11 216:11 218:23 223:12,21 230:4 237:21,25 238:9,14, 19
\$1.5 231:4	\$3 160:15,25 220:16	10 83:20 97:11,15 221:10 233:9	1:30 192:12	2019 7:20 15:11 27:9 82:25 92:15 98:24 103:2 108:13,20 171:23 172:11,24 182:12 183:4 184:5,9 186:19 197:16,22 198:16 199:14 200:18 201:14 202:13 204:8 208:18 216:11 218:14,23 225:8,12,22 226:3,5 230:10,13 231:4,11 238:25 239:24 240:6, 14,24 242:13 244:2, 17 247:4
\$1.55 236:15 237:13	\$3.3 197:9	10-minute 73:21	1:32 192:16 193:3	2020 242:13 248:22
\$1.7 238:8	\$3.4 197:9	10-year 219:4 226:19	2	2021 77:8 79:14,20 83:14 88:10 89:17
\$100 46:10,14 158:21	\$30 158:25 159:9 188:16,19 221:10	100 117:17 167:18 216:3	2 108:15 122:2,5	20th 122:17 124:5
\$100,000 228:6	\$30.7 158:7,16	1040 242:5,6,12 243:25	2.75 154:16	21 122:5 204:16 224:23 225:12
\$13 137:10,17 244:13	\$300,000 122:13 123:11 124:5	1040s 161:7 242:16	20 11:20,21,25 46:11 124:8	22 204:16
\$13.3 137:19	\$330,000 122:17 124:8 126:23	10:27 74:3	2007 122:6	23 197:21 198:16 199:14 201:14 202:2, 15 204:17
\$14 195:7	\$371 173:15	10:40 73:22 74:4	2008 83:19 107:2 108:13,25 119:13,14, 25 120:22 121:11 122:9,17 123:8 124:5,7,8,19 125:13 147:9,13,15,18 191:23 192:5	24 201:17
\$14-and-a-half 153:18	\$400,000 121:3,13, 24 123:9 152:21	10:27 74:3	2009 123:17,22 125:10,22 126:10 190:7 191:11 208:8	25 77:19 232:13
\$14.5 166:5	\$5 46:10	11 83:20 106:16 107:11 108:7	2010 126:13,16 128:11,16	
\$14.8 142:2,14	\$5.6 240:7,23	12 83:20 128:23 242:19,23	2011 128:23	
\$14.9 142:19 152:9, 18 177:16 194:21	\$50 17:3,8 50:12,19, 24 51:24 117:7 173:9 185:14	12-month 214:6,15 216:10	2013 7:20 218:14 221:13 225:8 242:4, 6,12 244:2,17	
\$15 221:6	\$500,000 97:2,5 117:3 121:17 122:2, 22 123:3 125:14 191:16	13 83:20 128:24	2014 80:5 82:25 129:10,14,17 130:19 131:8,14,18 132:6,22 137:8,25 138:14	
\$173 169:24	\$6 50:6,9 160:21 220:17 246:21 247:7	13-minute 73:23	2015 133:4,7,10,17 136:3,14 137:17	
\$173.4 167:11 168:13 173:19 174:19	\$6.1 134:15	14 80:6	2016 139:21,25 142:3,14 144:16 145:9 146:25 152:8, 14 153:6 224:8 233:16 234:5 235:19	
\$174 167:23	\$625,000 232:19 233:2	14.5 153:5 177:19	2017 134:20 148:4,10 150:25 152:22 153:2, 5,19 154:10 158:5	
\$2.3 234:20	\$677,000 201:9	14.9 153:5 177:18		
\$2.5 233:8	\$7.4 182:12	143 87:23		
\$20 197:17 201:20,22	\$7.9 195:12 198:15, 23	15 80:6 82:25 137:9, 25 169:5 181:25		
\$21 160:25 220:11, 14,19 221:17 222:7 233:9 241:10 244:15 245:8,16 250:24	\$700,000 122:11	15th 123:2		
\$22.8 154:21	\$73 171:3,16	16 77:2 115:16 197:21 215:9		
\$23 138:11 214:15	\$74 172:17	17 171:25 198:23		
\$23-and-a-half 200:19 201:10,12 202:2,15 203:25	\$783,000 198:6	174 168:18		
\$23.4 144:16,21 145:2	\$8 245:2	18 16:16 171:25 183:25 195:11,15 196:11 197:8 198:10, 22 199:15 201:13,25 204:15 214:6		
\$23.6 145:11	\$8.1 138:15	18-'19 201:18		
\$23.7 197:5				
\$24.143 201:6				
\$25 226:16,17				

27 130:8,12 133:22			209:16 216:3,12	advantage 13:13 211:9,12
279 242:9	5	8	accurate 78:19 185:6 194:11 205:22 209:2 215:22 220:23 221:14,15 239:16	advice 11:16 12:5,14 13:3 28:9,13 29:5 30:9,14,24 34:17 40:17,20 54:23 58:6 61:5 69:23 70:7 71:8, 19 139:5
28 77:8 83:14 88:10 89:17 175:12	5 89:19 200:20 202:15 204:3 214:5 221:5 240:10 241:2 245:3, 11	8 97:11,15 245:10	accurately 209:6 244:15	advise 30:17 34:22 35:4 38:11 39:4,11 41:24 43:3,20 44:4 47:16 51:15 52:19 53:23 54:10 55:11,14 57:19 58:5,23 60:25 62:5,21 63:16 64:8 65:12 66:3,22 68:9, 13 69:11,18 70:2,4 156:21 168:7 187:14
28th 79:9,14,20	5-0 236:6	8/1/08 122:2	achieve 60:4	advised 11:2,6 55:4, 9 70:23 187:19
29 134:6	5-minute 251:11	80 117:17	achieved 24:6 64:15	advising 69:8 71:6 168:6 187:9,10,12
2:45 251:10,13	50 11:22,25 12:2 117:10 236:6,7	9 83:20	achievement 62:11, 18	Advisor 248:17
2:50 251:14	50,000 235:3	90 91:19 192:13	achieving 44:23 163:12 214:23	Advisors 78:6 130:16 134:11 136:6 140:23 148:23 157:23 247:22 248:10
3	51 237:19,20	90s 10:19	acknowledged 81:19	Advisors' 223:24
3 103:17 108:18 122:4 184:4,9 205:3 220:18 221:7,17 222:3	52 238:22,24 239:23	937 232:5,11	act 29:14	affiliate 19:11,25 90:5 94:21 95:14 117:24 134:24 140:13 166:23 192:7 207:6,11,12,15 224:14,19
3- 228:8	6	A	acted 93:4	affiliated 56:12 124:13 126:5 130:11 160:4 161:10,18 162:2 206:19
30 5:17 18:22 68:17 122:9 148:5,17 182:15	6 172:7 208:12 221:8 222:2,3 240:11 241:3 245:3	a.m. 74:3,4	acting 29:10 83:7 187:3 227:9 228:17	affiliates 22:3 75:16 118:3 120:23 134:9 140:10 148:20 156:3, 9 157:6 164:4 167:8, 12,14,20,22 168:19 169:7 170:12 173:19 174:18 175:14 185:6, 9,12,19,20 190:12 207:2,22
30-year 18:23,24 59:17,25 149:24 150:13	60 192:13	absence 210:16 243:15	activities 224:6	afternoon 193:5 251:22
30.7 158:10	62 76:20,24 205:2	absolutely 14:5,8,12 42:7 51:14 70:15 128:25 162:7 163:10, 13 169:21 171:14 173:3 187:21	actual 23:8 218:13 226:4 229:8	
31 123:17,21 126:16 129:14 133:10 134:20 139:25 140:7 148:10 154:10 158:5 166:13,20 177:11 183:24	63 119:12,14	acceleration 7:14	actualized 23:4	
319,000 199:5	64 123:15,16	accept 129:4	actualizing 23:22	
33 123:25 126:19 193:18	65 126:14,15	access 53:20 65:22 161:25	add 177:18 201:24	
335 242:9	66 128:19 129:8	accomplishment 31:16	added 241:13 244:8	
34 166:10,12	67 230:9,10	accomplishments 31:24 43:11,16	addition 101:5 229:15	
370-day 201:13	67-2 231:15,16	accord 82:16	additional 22:18 88:12 104:3 105:5, 17,25 106:5,25 109:10 112:12 113:22 195:7 205:11 206:4 218:4	
38 120:13,14,15 181:24	67-3 242:4,6	account 161:8,13 163:6 174:24 180:17 227:13 229:3 235:8, 18 246:13 249:15 250:25 251:2	Additional 115:21	
39 182:6	68 233:14,15	accounting 182:22	address 112:22	
4	69 129:10,13	accrue 154:15	adequate 30:20	
4 245:11	7	accumulated 7:17	adjustments 244:23	
4-year 219:3 228:8	7 50:10 160:15 220:18 222:8,10,18	accuracy 202:11	Adkins 95:2,20,21 96:5,7	
40 17:3,8 117:7,9 173:8 185:14	7-year 221:19 228:18 229:5 244:16		admissible 5:15	
	7.9 198:18		admonish 212:2	
	7/31/06 121:24			
	70 133:7,9 193:12,13			
	73 193:13,14			

aggregate 16:23 17:17 60:19 65:13 117:15 137:10 138:10 142:2 158:15 182:11 244:6	209:7,13 211:14,17 249:7	104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1,23	alternative 11:7 amend 80:9 89:11 107:3 amended 18:6 77:10 231:8,9 amortization 149:25 amount 31:22 33:6 43:9 48:18 52:13,15, 17 55:14 56:3,4 59:6 61:2 73:13 81:12 92:7 97:2 116:23 121:13,17 122:6,13 123:9,10 124:5,8 125:4,14,17 131:21 135:11,13 137:10,11, 16 138:11 142:2,18 145:2,10 147:24 152:21 153:4 174:18 175:13 182:11 195:11 198:19 199:14 201:6,16 225:21 237:13 241:2 244:6 amounts 17:25 44:3 55:25 58:21 60:23 96:19,21 97:4 109:16 134:20 140:10 147:14 148:19 156:3 157:12 164:3 167:8, 12 169:7 173:18 174:17 175:14 185:16 195:20 241:13 Amy 5:4 analysis 16:19 17:18 145:25 146:5 160:19 171:16 217:7 218:7 219:14 222:16 223:4, 17 224:2,20 225:19 226:6,10 227:13 229:3,5 239:9 240:24 245:8,18 249:14 251:8 analyze 217:18 analyzed 250:22 analyzing 228:19 and/or 203:21 214:23 215:4 annual 219:25	answering 196:20 apologize 26:10 31:8 74:15 82:7 96:2, 6 148:6 181:20 193:13 209:25 appeared 190:8,14 appears 178:12 191:18,25 230:23 applied 43:18 105:11,19 198:8 199:3,5,14,15,19 applies 56:10 apply 219:3 approximately 91:14 154:21 160:15 184:25 197:5 198:6 200:19 202:12,14 203:25 231:4 232:19 233:8 236:15 240:7 244:7 approximates 135:6 149:4 176:25 approximating 152:3 April 75:2 arbitration 174:8 area 9:3 14:4 28:18 66:21 areas 12:15 30:25 arithmetic 200:24 arithmetically 220:9 arm's 10:10 article 219:11 222:17 ascertain 225:6 aspect 79:15 98:7 150:19 assertion 100:3 assertions 206:5 assess 45:4 62:19 63:5,14,25 64:5,6,9, 21 100:21,23 101:9 156:6 227:4 246:11 assessing 228:13 235:8
aggregated 241:7 agree 29:15 33:18 36:13,23 41:4,24 60:8,18 67:10 69:4 112:10 123:7 128:8, 14 136:22 159:2 161:23 190:5 191:7 agreed 134:24 139:16 149:18 150:18 151:4,14 153:10,24 155:3 164:8,17 165:3,13 175:22 176:6,12,17 178:16 179:13 agreeing 34:15 36:2 40:14 42:25 46:13 49:16 59:2 68:5 173:6 agreement 15:10,22, 23 16:2,4,9,14,21,24 17:21 19:6,10,14,20, 24 20:5,10,15,17,19, 21,23 21:4,7,13,25 22:7,13 23:19 24:5, 12 25:2,8 26:12 27:8, 14 28:3 31:5,7,10,13 32:11 39:14 42:9 44:8,12,14 45:8 46:2, 9,11 47:25 50:17 53:25 55:8,22 56:7, 10 57:10 61:13,19,24 62:6 63:24 65:11 66:10,24 68:11 69:12 70:9,12,17,24 71:5 73:9 83:9 92:14 93:17,25 94:2 98:23 99:7,20 100:2 101:14,21 102:25 103:14 111:7 113:11 117:8,16 139:7 155:8,12 156:24 169:17,25 171:21 172:10,13,23 178:25 179:9,16 180:19 181:10 183:4,5 188:22 189:3 196:13 200:2 203:2,10 204:18,22 208:17	agreements 17:12 69:17,19,24 70:21 72:7 78:6,15 138:19 187:15 248:19 agrees 32:21 ahead 210:6 Aigen 5:24 28:7 67:17,25 107:15 109:12 111:11,20 118:7 135:22 147:10 150:6 156:11 157:14 160:6 161:12 162:3 168:16 169:8 170:2 174:25 178:11 180:13,22 181:12 182:20 183:8 187:17 188:8 189:5,14 190:24 192:8 196:15 202:22 203:11 205:19 206:11 207:18,24 209:8,17 211:5,19 214:9,19 234:7,14,18 240:25 243:20 244:21 249:18 250:14 251:23 Alan 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1	alleged 22:7,13 103:14 allegedly 247:16 altered 18:8		

assessment 43:4 44:16 45:19 47:3 48:12 102:13 238:18 asset 11:2 46:16 247:8 assets 28:2 42:11,21 43:22 44:7,10 46:8,9, 10,24 47:20 48:8 93:18 94:3 169:6 173:13 215:5 247:13 assignment 100:18, 22,25 101:4,7 association 5:5 assume 53:15,17,19 66:13 67:21 107:11 108:7 109:7 116:12 120:6 144:24 145:4, 7,12,15,18,22 150:4 158:2,22 194:15 202:10 239:5 249:22 250:4 assumed 211:15 assumes 173:17 174:15,16 assuming 55:13 153:6 221:7,14 assumption 108:12, 15,18,21 129:5 145:3 249:25 assumptions 109:4, 8,18 173:20 174:20 asterisk 199:7 attached 28:24 31:17 attempt 51:16 161:20 217:18 attempted 217:14 attempting 39:6 52:22 attention 18:17 attorney 6:17 attorneys 21:4 52:8 99:16 attributable 171:2 audit 40:4 185:25 186:24	audited 83:19 108:23 119:13,14 120:4,22 123:16,21 126:3,15 128:25 129:13,18,24 133:9,16 139:22 142:12 147:18 148:9, 17 152:15 155:21 157:4 158:6,14 166:8,12,19 177:10 179:24 181:8,25 183:7,22 184:23 185:2 186:6 190:2 191:8 206:7,14 auditors 84:3 181:10,16 182:16 August 121:16 122:17,21 124:5,8 125:13 authored 84:7 average 50:6 219:24 220:3,5,15,17 221:18,21,25 avoid 51:5 139:3,11 award 174:8 226:11 234:6,24 235:2 240:7,14,17 245:12 awards 238:20 239:5,13,18 241:14, 18,23 242:2 244:25 aware 15:23 18:12 32:17 33:10,15,24 71:22 79:3,6 83:25 84:5,8 99:18 110:4,7 112:6,8 117:5,25 134:23 135:2 143:23 144:2,15 162:16 167:24 168:2,22 174:7,9,11 180:6,17 186:12,18 188:2 190:18,25 199:23 200:3 219:11,16 222:15 224:15,17 227:16 228:24 236:25 238:15 239:17 240:15 241:6, 20,22,25 246:24 247:20 248:6,9,14, 16,20,21,24,25 249:5,6,9,10 aways 25:24	<hr/> B <hr/> back 10:14 25:9,21, 24 65:19 71:4 73:22 83:6 92:5 107:2 108:20,25 110:20,25 112:9,11 113:9,21 143:23 153:15 155:17,23 172:5 173:11 194:21 204:25 212:4 215:20 224:8 229:21 230:25 232:16 234:4 237:9 238:4 240:5 241:13 244:24 250:18 back-office 249:23 bad 188:10 balance 40:4 42:3 61:16 62:13,15 132:25 139:3 166:25 167:3,11 173:12,22 174:2,21 175:7 198:15 bank 83:11 90:16,17 194:5 banker 187:25 bankrupt 188:15 bankruptcies 188:9 bankruptcy 106:17 107:12 109:11 171:2 186:13,14,16,18 187:3,10,14 188:2 190:21 204:10,11 211:4,13 245:4,13 base 225:20 based 10:14 22:18 29:15 45:8 47:6 67:11 116:5 126:7 127:10,14 136:20 159:23 160:2,19 161:4 184:23 190:6 191:7,14,20 192:2 200:21 208:24 209:4 212:6 216:16 222:12, 18 241:8 243:14 basic 31:18 40:16,23 41:5 43:6 44:9 58:3 60:15	basis 109:9 112:25 146:15 239:7 Bates 231:25 232:4, 10 234:8,11 237:8 238:3 240:2 beginning 156:18 begins 130:12 behalf 6:6 21:10,11 29:10,14,17 30:4 83:7 85:2 93:4 103:15 156:9 172:23 173:7 187:3 194:6 211:18 227:9 228:17, 22 behaviors 33:4,8 believed 16:4 186:21 believes 66:8 believing 203:20 beneficiaries 145:17 beneficiary 55:8,22 145:19 benefit 156:23 158:22 161:9,17,24 162:10,14 168:9,15 187:25 233:15,20 236:7,12 237:20 250:10 benefited 159:7 162:4,5 benefits 237:24 238:7,24 239:24 bet 9:9 big 13:20 250:19 bit 15:4 39:24 72:24 79:12 113:5 221:4 247:19 Black-scholes 226:24 blue 52:12 board 11:16,21 12:4 13:9 29:20,23 boards 12:7,11,12 body 30:3	bonus 225:20 book 135:14,15 books 44:11 72:8 boring 166:3 borrowed 46:5 185:9 195:6 borrower 136:25 137:4 203:19 borrowing 185:12 bottom 77:4 130:12 167:6 170:24 171:3 224:23 225:12 230:17 231:23 233:25 237:5 238:2 239:25 box 157:24 231:9 232:18 break 73:21,23 74:7, 12 184:20 189:23 192:12 193:8 251:11 bring 210:21,25 broad 52:25 58:2 92:11,12 broke 88:13 bullet 208:15 bunch 17:12 189:16 business 12:17 24:14,17,24 25:12,23 33:11 36:18 37:6 38:19 39:22 40:25 41:12 46:19,22 48:10 54:8 114:20 193:25 212:8 213:9 218:20 233:22 245:21 246:2, 15,17,22 247:2,17 businesses 168:20 170:5 224:4
<hr/> C <hr/> calculated 161:4 233:10 245:16 calculus 44:23 call 42:15,20 90:24 91:12 193:22 211:4				

<p>called 114:16 120:23 130:11 132:2,16 156:2 211:15 243:17</p> <p>calling 22:19</p> <p>calls 90:25 91:2,8 216:11</p> <p>candid 93:10</p> <p>CANTY 76:18 129:10 133:7 163:18 166:10</p> <p>capacity 188:16</p> <p>capital 5:21 6:18 75:15 78:5 79:24 85:11 114:19 129:18 130:16 132:17 134:11 138:14 139:18,23 148:22 151:9 160:5 161:10, 14,18,25 162:5,6,12 163:11 165:8,15 173:14,17 174:14,23 176:18 190:17,20 222:24 223:5 242:20 243:3,17 244:3,9 247:22,23 248:15,17 249:3</p> <p>career 10:16 73:2</p> <p>carried 167:11</p> <p>carrying 135:6,12 149:4 152:4 176:25</p> <p>case 5:19 43:19 73:16 74:17,25 75:12,16,20 76:3 84:6,15,22 85:18,21 90:14 100:7 119:8 135:15 183:12 185:13 207:3 217:9</p> <p>cash 40:5 225:20,21 226:2,4 241:12 249:11</p> <p>catalog 70:14</p> <p>catch 79:11</p> <p>categories 80:14 92:12</p> <p>categorized 208:21</p> <p>caused 222:18</p> <p>caveat 52:24,25 55:24 73:13 78:19</p>	<p>190:4,5 206:19</p> <p>cell 10:3</p> <p>CEO 29:25 53:11,24 54:12 65:20 66:20,24 67:24 71:5,9 246:12</p> <p>CEOS 247:5,7,14</p> <p>certainty 44:21</p> <p>certified 5:5</p> <p>change 89:6,10 106:15 107:10,17,25 195:7 199:5</p> <p>changed 23:10 107:7,8 168:23 216:16</p> <p>changing 195:20</p> <p>chaos 188:13</p> <p>chaotic 37:2 41:10 54:19 55:18 188:11 211:8</p> <p>characteristic 23:7</p> <p>characteristics 23:11</p> <p>characterization 22:23</p> <p>characterize 78:2 81:6</p> <p>characterized 20:21 200:21</p> <p>chart 196:10,23 198:4 200:22 202:10, 11,12 219:21 222:22 225:11 229:22 231:8 233:3</p> <p>cheat 147:16</p> <p>chief 85:12</p> <p>child 10:9</p> <p>circumstance 36:11 37:23 41:2,15 47:23 54:17 60:6,17</p> <p>circumstances 26:6,7 30:21 33:16 34:5,10 45:6 47:14 48:3 54:11,16 63:12 102:3 119:5 196:18 203:7</p>	<p>Civil 5:18</p> <p>clarification 222:5</p> <p>clarity 37:20</p> <p>clear 6:14 8:9 26:11 37:5,11 38:7 41:21 151:25 212:9 213:13 214:7 251:25</p> <p>client 14:23 39:8,11 44:4 55:4,9,11,14 58:23 60:25 68:9 181:9 187:9,14,20</p> <p>clients 11:11 13:4,25 14:16 28:19 33:25 37:14 47:21 68:13 69:18 70:5 181:5,15 189:7,19 210:22 211:24</p> <p>closely 119:3</p> <p>closer 47:8</p> <p>co-founder 143:12</p> <p>co-owned 207:7</p> <p>codifying 92:25</p> <p>colleague 91:11 95:9</p> <p>collect 188:19</p> <p>column 194:25 196:24 198:5 199:2,8 201:6,19 227:24</p> <p>combined 149:22 150:13 158:9</p> <p>comfortable 10:7 13:25 191:9,15,21 192:4 244:14</p> <p>commenced 72:15 73:5 188:25</p> <p>comment 25:9</p> <p>comments 26:8 95:25 105:13</p> <p>committee 12:4 13:9 29:19,20,24</p> <p>committees 12:12</p> <p>common 69:4,7</p> <p>commonly 45:3</p>	<p>communicate 74:10</p> <p>communicated 90:13</p> <p>communication 90:22</p> <p>comp 29:20 45:3 241:14 245:12</p> <p>companies 12:19 15:13 56:12 72:5 115:7 160:5 161:11, 18 162:2 206:19 208:20 216:24 247:5, 8</p> <p>company 29:15,17 32:14 36:6,10 44:3 53:19 61:11,17,20, 23,25 62:4,13 63:13, 21,23 66:12 67:16 68:6 92:22 93:4 102:2 105:9 113:7,12 114:4,14,24 119:8 163:4,11 170:11 172:22 173:2,6 174:7 200:11 203:17,22 208:3,6 211:18 214:24 215:3 226:15 228:7</p> <p>company's 33:13 38:3 53:20 226:14</p> <p>comparable 48:13, 19 49:10,15 51:11,17 52:4,20 64:25 65:23 68:23 102:13 160:20 161:22 216:24 227:5 228:14 239:19 244:18 247:4</p> <p>compared 118:4 220:15</p> <p>comparing 220:2</p> <p>comparison 239:19 247:6</p> <p>compensated 49:10,16 51:11 156:7 157:10</p> <p>compensation 7:19 9:4 10:16,19,23 11:4, 8,17 12:4,12,15,23 13:5,9 14:4,15 22:18 23:3,5,8,9,12,13 24:15,19 27:19,25</p>	<p>28:15 29:24 30:5,16 32:10 33:19,20 34:6, 15,24 35:5,7 36:14 38:2,12,22 39:15 40:23 41:5,25 43:2 48:13,19,22 50:20 61:9 62:23 66:16,22 69:11 70:23 72:19 88:9,12,14 94:12 101:6 104:3,12 105:5,18,25 106:6, 18,25 107:6 108:3 109:10 110:21 112:13,17,20,24 113:23 114:6,16 115:2,8,23 116:20 157:16,20 189:2 205:11 206:4 215:14 218:14 219:21,25 221:18 223:7 225:7 227:5 228:13 233:15, 20 234:6,20,24 235:8,19 236:7,12 237:14,20,24 238:6, 18,24 239:10,24 240:7,14,17,24 241:7 244:19 250:13</p> <p>competition 52:23</p> <p>complaints 75:12</p> <p>completed 200:5 230:21 232:8,15</p> <p>completely 93:9 251:24</p> <p>completing 195:23</p> <p>complicated 34:2 69:17</p> <p>comports 150:11</p> <p>comps 220:3 225:16 239:11 240:22</p> <p>concept 14:19 179:19,23 196:5 202:20</p> <p>concern 79:14,20 113:8 116:13 117:17 177:9</p> <p>concerns 129:2 140:22 164:13</p> <p>conclude 109:9 127:10 178:7 243:15</p>
---	---	--	---	--

concluding 191:9, 15 192:4	consultants 13:16	corporations 119:4	Cote 95:2 96:9	186:15 198:2,5 199:8 202:6
conclusion 115:18 146:11 153:2 160:13	consulting 10:19,23 13:2	correct 10:15,17,24 11:8 27:11,16 28:5 30:11 40:18 61:4 62:23 63:9 65:15 77:16,17 80:10 83:9 85:3 94:6 97:23 101:22 102:4 103:2, 6,15 113:3,18 116:10,11 118:6 120:9 125:10,22 128:11 130:24 131:8, 18,22 132:7,22 133:20 135:17,21 136:3 140:4,5 142:19 144:21 146:19 147:2, 13 148:3,14,15 149:19 150:9,10,15 153:8,12,13 154:2,3 158:16 159:15,20 160:16,22,23 161:5, 11,15,19,22 168:10, 11 169:3 171:23 173:19,24 177:11 178:17 179:4 186:9, 10 190:18 191:3,11, 22,25 196:10,14 197:10,18 201:14 202:17 205:15 206:10,16 207:23,25 208:8 209:13 210:14 212:19 213:3,10 216:4 217:12,15 218:8 220:4,19 221:19,23 222:8,10, 13,24 224:25 225:9, 10 226:3 227:19,21 229:25 231:11 233:4, 10 235:9 236:2,21,24 237:16 240:14 241:19 250:22,25 251:7	counsel 5:3 194:8	dated 124:8 177:5 184:4
conclusions 18:8	contained 157:3 194:13	corrected 232:21	count 201:3	dates 127:7,25 128:4
condition 35:10,12, 15,20,25 36:5,9,15, 18,25 37:6,7,12,14 38:4,14,17,19,24 39:2,7,9,13,22 40:24 41:6,11 43:5 44:16 63:8,12,21 66:17 68:21 136:24 137:4 163:9,10 170:10 172:21 173:2,6	contemplate 58:14	correctly 6:22 8:6 11:11 104:6 114:4,9 116:2 127:4 137:20 154:23 185:22 208:22 215:16 248:3	counted 200:23	day 156:19 198:24 226:15
conditions 22:20 43:22 56:9	contemplating 69:9	correspond 124:6	couple 16:18 19:2 136:18 162:18,21 194:7 211:23	days 95:18
conducted 95:13 102:24	contends 117:8 200:2	corresponds 124:17	court 5:2,5 187:4,15	deal 45:13 61:15,16 66:7
confident 208:25 209:5	context 15:18 32:14, 23 33:11 49:2 65:7 155:12,13	cost 15:12 28:3 42:12,21 43:21 46:8, 10,11 47:3,19 208:19	courtroom 5:16	dealing 13:21 29:25
conflicts 202:20	contingency 42:16		cover 56:21	Deborah 6:2
confuse 185:24	contingent 42:16 64:11		covering 19:6,10,14	debtor 186:13 187:10,13 188:17
confused 185:17	continue 149:11 154:4 177:13 182:5		covers 184:8,12,15	decade 109:11
confusion 188:13	continues 149:2 215:22		COVID-19 5:7	December 108:20 123:17,21 126:16 129:14 133:10 139:24 148:10 150:25 154:10 166:13,20 171:22 172:18 177:11 183:24 197:21 198:16 199:14 200:18 201:13,14,25 202:13 204:7 214:6,7 216:11
conjure 55:20 67:12	contracted 249:24		created 23:11 145:14	decide 67:7 223:3, 15,25
connection 179:16	contrary 243:16		crisis 37:3 218:19	decided 221:3
conservative 218:2	contribution 155:8, 11 179:8,16		criss-crossed 8:16	decides 29:21
consideration 58:8, 25 59:16	control 204:6,12 249:2 250:8		curious 111:9,12,13, 14	deciding 163:6
considered 54:13 89:23 90:3 91:4 114:5 115:22 146:9, 14 157:20 163:13 215:13 228:12	controlled 56:23 156:10 157:13 158:23 159:19 167:15,16,17,19		customarily 72:6	
consistency 231:7	controlling 248:12		customary 138:17	
consistent 102:8 105:13 114:4 115:14 147:24 233:2	controls 56:13 158:3		cutoff 184:14	
consolidated 7:13 16:15 170:18	convenient 189:18		cycles 13:24	
constituted 56:4	conversation 56:17 83:10,12 146:22			
constructing 87:18	conversations 56:18		D	
consultant 10:16 189:2	convoluted 111:13		D-CNL003585 234:17	decision 12:13 29:7, 9,11,12,16 30:2,4,9, 14,18,23,25 31:10 32:8,12,18 33:17 34:13,22 35:4,12,24 36:12,23 37:9,16,24 38:11,18,21 39:4 40:11,18 41:3,16,24 43:3,20 44:5,13 45:7 46:13 47:17,24 48:20 49:14 50:11,13 51:4, 6,16 52:3,5,19 53:23 54:8,10,21,25 55:21 57:2,6,8,11,14,19,21 58:4,5,9,15,20 59:14 60:7,17,21 61:7,12,

18,21 62:3,4,6,21 63:8,10,16 64:8,23 65:12 66:3,14,23 67:4,10,13,21,22 68:10,15,18 69:8,11 70:2,23 72:12 73:2,8 93:3,17 98:22 100:14,17 102:24 103:10,13 156:21 163:5 168:6 169:16, 19,22 170:6,8 172:20,25 173:5 211:16 218:22,24 219:9	207:21 dependent 216:3 depending 47:13 depends 66:5 159:5 deposed 8:20 100:7 deposition 5:11 6:19 18:5 29:7 81:20 82:19 84:6,10,25 85:17,22,24 86:4,12, 13 88:7 89:9 100:10 depositions 9:11 153:16 describe 13:8 17:10 19:19,23 20:4 28:17 48:14 83:8 92:13 105:18 162:10 describes 130:15 164:4,23 describing 105:20 206:25 description 27:3 109:2 150:23 220:22 design 45:2 59:22 detail 7:24 determination 48:20 222:12 determine 65:8,10 115:11 217:8 245:19 251:5 determined 220:16 221:22 222:10 differ 219:3 difference 118:23 160:24 199:13 219:20 220:9,11,14, 18 222:7 233:9 244:15 245:16 differently 8:16 146:10 difficult 13:21,23,25 37:4 41:11 43:7 44:24 45:19 difficulty 32:4 45:4, 17,23 64:14 dilemma 153:16	diligence 102:24 103:5 230:6 251:4 direct 87:2 162:12 directed 86:21,24 87:16 directly 56:13,22 90:13 248:7 director 53:12,16,18, 19 54:2 65:20,25 66:8,14 68:2,6 71:6, 7,12 directors 11:16,21 12:4,8,11,12 29:23 71:14 disappointing 162:22,24 disclose 110:24 181:17 188:6 206:9 211:11,22 212:2 228:22 disclosed 79:4 182:25 183:6 191:13 206:21 208:10 209:6 211:25 223:20 226:12,23 246:4 discloses 173:23 188:17 232:18 disclosure 182:17 188:17,24 211:3,20 discomfort 111:16 discuss 14:19 110:16 113:15 119:20 discussed 16:3 195:18,22 discussions 53:10 dispute 37:6 39:3 117:13 196:9 disputed 110:13 disputes 72:20 distancing 5:9 document 9:16 17:10 40:8 78:12,22 81:10,14 120:7,15 124:2 133:20 148:13 181:6 183:19 193:11,	18,24 194:14 210:15, 23 212:4 230:20 231:2 232:7,14,17 234:2 237:7 239:22 documentary 20:9 documentation 17:24 18:3,13 21:16, 18,20 79:23 116:13 119:7 206:6 210:16, 24 213:11 documented 72:20 127:22 183:11 documents 9:13,21 17:6 18:9 19:18,22 20:3,12 21:11 77:22, 25 78:3 79:3,9,13,17, 19 80:8,14,16,19 81:5,17,20,24,25 82:4,5,9,15,17,19,21 83:7,14 88:5,19 89:15 90:4 98:7,10, 13,15 106:11,14 112:3 116:9 118:14, 22 190:12,13 194:9 213:8 215:19 229:20 241:9 dollar 60:23 61:2 dollars 46:5,7 122:6 244:7 domain 225:6 247:14 Dondero 6:6 7:10 14:23 15:9,24 16:3 18:15 19:7,20 20:15 21:3,10 22:3,8,13,17 23:21 24:4,13,23 25:3,6,16,25 26:9,20, 24 27:3,7 28:3 56:11, 12,14 75:19 83:6,10 85:20,23 90:5,9 91:2, 9,15 94:9,18 98:23 99:3,6,13,20,23 100:2 101:15 102:7 103:2 104:10,17 105:4,7,12,16,23 106:5,6,9,17 107:14, 22 108:10,13,15,21 109:3,9,25 110:2,17, 24 111:3,17 112:4 113:2,10 115:10,22 116:6 117:6,16 141:25 142:7,13,24 143:12 145:14,19	146:16 151:21 152:9, 17 153:3,12,17 156:7,10 157:9 158:3,22 159:18 160:3,14 161:9,17,24 165:19,23 167:15 171:20 172:8 177:15 178:8,17 180:18 183:3 184:25 185:8, 20,21 187:2 191:22 194:6 195:6,15 196:11 197:15 198:22 199:21,24 200:18 201:5 202:13 203:24 204:6 205:15 206:3,15 207:9,13 208:16 209:6,11 210:10,18 212:21 214:5 215:2,13,21 216:4,5 224:12,18 225:4,5,25 227:6,8, 14 228:14,16,21,23 229:4 230:14 231:3, 21 236:19,22 237:10 238:7,12 240:6,12 244:2,16 245:19 246:11,18 248:6,25 250:10 Dondero's 87:17 88:7,9,20 89:9 194:8 195:24 218:13 219:20,25 220:15 221:18 223:4 229:22 234:3 235:19 236:12 237:24 238:18 239:10,23 240:24 242:4,11 243:10,25 double 200:23 201:3 dozen 70:10,13,18 dozens 12:9 drill 39:23 due 5:7 82:23 108:16 111:5 122:11 131:21 132:25 134:15 135:16,21 137:11 139:13 140:10 144:18 148:19 152:16 154:20 156:3 164:3 167:8,12 169:7 173:18 174:18 175:14 177:19 195:16 198:9 199:20 200:20 204:3
---	---	--	---	---

Dugaboy 84:17,19, 21 85:2 99:8,23 101:15 144:5,8,12, 16,18,20,23,25 145:9,13,23 146:18, 22,24 154:7,10 155:5 179:8,15	115:11 123:10 126:6, 10 130:4 207:23 212:7,14 213:20,21 employer 29:10 30:4 40:13 41:7,18 46:6 63:9 168:9,14 169:24 225:22 employer's 36:24 63:18 68:20 employment 68:20 enabled 159:3 enabling 44:15 encompassed 70:9 end 13:19 103:24 121:7,20 122:18,23 123:4 125:4,18 126:4 127:18 130:20 131:21 132:25 134:16 137:11,17 142:17 149:2,9 152:10,22 153:5,19 154:19 167:23 177:20,25 180:2,7 182:24 184:15,24 186:2 201:18 204:8 205:9 208:8 ended 138:14 ending 133:17 139:24 148:10 154:10 166:20 172:17 177:10 183:23 ends 152:2 endure 128:22 engaged 6:23 74:16, 17,21,24 75:7 engagement 75:3,6, 16 enter 31:3,10 37:25 38:11 39:5,19 40:14 41:16 45:8 46:2 47:25 48:21 49:16 52:20 55:5 58:15 63:15 66:23 68:10 70:17,24 72:5,12 102:2 173:7 entered 21:13 23:18 27:9 46:9 62:7 73:3	92:14 93:17 98:22 99:6,19,25 101:15 102:8 103:14 113:11 169:17 171:21 172:22 180:18 183:3 211:17 entering 32:10 35:13 39:13 50:17 51:18 53:25 54:14 55:22 57:4 61:8,20 63:6 64:2,4,7,22 65:11 67:23 68:18,24 69:9 102:25 156:23 169:25 enters 67:14 entire 10:15 86:17 125:17 132:24 entirety 131:20 entities 8:16 56:22 89:2 109:15 118:17, 21 157:12 160:18 206:23,25 241:4 248:8 249:7,11 250:5,9,13,17 entitled 81:10 155:22 182:2 entity 19:16 20:6 119:2 131:25 132:16 158:23 162:23 187:24 188:15 190:21 191:10 207:11 213:2 224:10 230:5 243:5,14,17 entity's 35:9,11,25 36:15 38:13,24 39:2, 13 42:2 66:17,18 entries 233:7 entry 73:9 equal 97:2 146:15 157:10 equaled 135:20 137:18 equals 135:10,15 160:25 173:19 equity 12:18 essentially 146:13 estate 248:10	event 27:15 42:17, 19,20 45:9,11 47:4 128:8 180:15 182:23 183:6 184:8 events 31:20 32:6 33:12 35:17,21 64:10,15 179:20,23 180:2,5 181:22 182:2,24 184:11 eventually 109:19 114:20 evidence 20:9 125:8, 21 126:9 147:7 206:2 210:13 exact 59:7 97:4 182:21 194:18 EXAMINATION 6:11 exceed 173:13 excel 88:11,13,18,23 89:5,14 exception 69:22 excerpt 86:18,19,22, 24 87:4,6,11,15 88:7, 20 89:10 excess 197:16 244:13 exchange 150:25 198:23 248:23 250:6 exclude 197:7 200:17 excluding 191:21 exclusively 105:6 executed 89:17 executive 9:4 10:16, 18 11:4,7,17 12:15 14:4 28:14 30:5,16 32:23 35:5 36:13 38:2,12 39:14 41:4, 25 48:22 49:17 50:8, 21 51:25 55:7 61:9 65:24 66:4,22 69:10 70:22 72:12 156:23 168:10,15 169:25 187:23 188:6,15,21, 25 203:16,19 225:22 227:5 235:9 246:19 executive's 32:9,20	33:19,20 34:14,24 35:7 62:23 66:15 68:20 executives 21:14,15 25:19 28:21 33:23 48:13,19 49:10,15 50:2,5 51:11,17 52:4, 20 64:25 65:23 68:23 102:13 104:19,21 113:5 114:14 160:20 161:22 181:11,17 215:25 216:25 225:3 226:3 228:14 239:11 244:20 exercise 119:19 226:13,18,20 exhibit 76:20,24 81:11 119:12,14 123:14,16 126:14,15 128:19 129:8,13 133:6,9 166:10,12 193:12,14,18,23 205:2 214:4 218:13 230:9,10 231:15,16 233:14,15 236:6,7 237:19,20 238:22,24 239:23 242:4,6 exist 37:8 111:23 existed 21:20 22:22 102:4 111:19 187:15 existence 19:19,23 20:4 21:12 71:10 72:14 83:8,15 211:14 existing 81:6 exists 16:9 21:25 100:11 101:21 expect 189:15 expectation 182:23 212:9 213:14 214:8, 11,16 expectations 214:12 expected 180:20 183:5 expenses 145:17 174:10 245:20,25 246:15 247:16 experience 13:11,24 28:9,18 49:9 53:16
E				
earlier 27:21 35:16 38:15 41:8 42:5,24 48:23 55:25 60:12 62:9,20 64:16 70:20 90:15 115:5 163:9 170:10 181:4 183:9 202:23 203:3,12 211:25 235:6 247:19 early 10:19 15:11 27:9 90:10 92:15 95:5 98:24 103:2 138:24 172:4,11,24 183:4 208:18 earn 102:14 earning 160:21 earnings 160:14 eastern 73:22 effect 146:6 elements 38:22 88:14,25 Elms 6:5 embarrassed 77:24 employed 127:17 employee 46:5 55:7 73:4 97:15 121:4,12 122:23 123:3,9 128:16 129:3,7 223:6,19 224:3 233:23 239:15 employees 26:14 30:2 34:6 52:23 90:6 94:22 95:14 105:15				

66:20 67:11 68:17 72:4 103:9,13 127:11,14 136:20 159:24 188:25 222:19 experienced 9:12 experiences 13:14 95:24 expert 6:23 7:3 8:23 9:3 30:24 35:23 70:22 74:21 76:15,20 83:16 89:17 106:22 116:12 118:24 184:10 227:2 228:10 230:18 expertise 14:4,7,9 29:16 49:9 66:21 67:12 136:21 159:24 160:3 experts 13:17 explain 7:23 explained 113:20 explanation 203:24 extended 19:7,11,15 22:3 107:13 139:18 142:24 143:20 146:18 149:19 151:6, 9,16 153:12 154:2 155:5 164:10,14,19 165:5,15 168:9 169:24 175:23 176:7, 13,18 178:17 179:2, 15 192:6 extent 58:7,24 62:21 63:7,17 156:17 157:11 extremist 54:20 55:17 <hr/> F <hr/> face 66:6 67:8 68:7 135:11,13 216:25 faced 174:5 facets 72:19 facilitated 159:5,8 fact 9:2 21:19 27:13	49:4 109:8 110:2 116:25 131:20 132:24 145:24 147:19 155:20 167:25 169:10,15 171:6,9,15 196:10 200:4,16 203:4 206:7,8 230:20 factor 157:19 163:5 222:6 factors 32:16 51:13 61:16 221:16,17 facts 69:6 89:22 91:4 102:3 107:7 108:7 218:5 221:7,14 fails 163:5 failures 162:15,16 fair 10:12 11:24 14:3, 6 20:8 22:20,23 23:14 27:20 29:18 30:6 31:14 32:5 38:10 41:23 42:15 47:2,6 48:14 49:13 51:5,8,10,12,19 52:18 61:13,17,19, 22,24 62:4,7,16 63:18 64:12 65:2 66:7,9,11 67:8 68:3, 5,7 78:2 84:9,13,20, 24 92:6 94:4 100:6,9 101:17 102:14 103:10 109:24 116:23 117:14 118:8 124:16 126:7 132:12 133:2 135:4,10,20 142:9 147:6 149:3 150:4 152:3,25 159:23 160:2 174:13, 22 176:23 178:7 180:12 191:17 197:13 202:19 210:9 219:2 222:19,20 227:12 229:2 240:20 241:11,12 243:15 246:18 249:14 fairly 62:18 200:21 fairness 62:20 63:5, 14,25 64:6,22 65:8, 10 100:23 fallible 69:18	false 106:25 familiar 14:10 25:21 40:7 57:9,22 65:21 80:13,23,25 117:21 170:20 179:19 182:21 249:19 familiarity 38:6 57:25 75:14,18 fashion 220:20,21 fast 96:2 fathom 36:21 favorable 187:21 188:4,6 feasible 34:19 features 7:14 58:3 February 171:22 Federal 5:18 feel 43:14 217:23 feeling 45:17 47:6,9 felt 62:16 fiduciary 54:3 figure 41:11 185:6 241:7 247:7 file 88:11,13,18,24 89:5,14 filed 109:11 186:18 filing 106:17 107:12 186:15 204:11 filling 246:4 final 30:23 finalized 184:16 finance 71:22 181:15 financial 10:23 11:12 12:22 13:4,12,22 35:10,12,15,20,25 36:5,9,15,25 37:3,5, 12,14 38:3,14,24 39:2,7,13,24 40:2,12, 16,24 41:6,18 42:2 49:11 53:17,20 63:8, 18,21,23 65:22 66:17,18 68:21,22 71:23 72:2,7 78:4,14 79:24 80:4 82:9,24	83:19 85:12 88:6,19 101:9 108:24 115:7 119:13,15,25 120:5, 22 123:17,21 126:16 129:2,14,18,25 133:10,16 136:24 137:3 139:23 142:8, 13 147:18 148:9,18 152:15 155:16,21 157:4 158:6,14 163:8 166:13,19 170:10 171:13 172:21 173:6 177:5,10 179:24 180:7,10 181:8 183:7,23 185:3 186:7 190:2 191:8 206:7,14 216:9,23 217:6 218:19 financials 124:19 126:3 139:21 152:9 156:13 162:17 166:9 170:5 180:8,24 181:25 183:2 184:24 190:9,15 191:24 192:3,10 194:22 195:5 206:17,20 208:11 find 34:18 93:12 189:19 finish 215:11 finished 209:24 firm 9:3 10:19,22 12:18 46:25 74:17,22 75:23 76:3,5 82:2,4, 12 83:18 86:25 87:2, 12 91:11,21 92:6 109:25 115:25 116:18 215:15 217:2 243:12 firm's 11:11 firms 11:3,7 12:22 13:2 72:10 101:9 189:12,17 206:25 217:6 fiscal 123:8 180:3 five-plus 85:12 fixed 226:14 228:8 flip 153:15 flow 40:5	focus 15:7,21 118:19,20 196:24 focused 86:19 focusing 112:16 follow 181:5 footnote 199:12 footnotes 175:6 179:25 180:4 forecast 43:7 forgave 97:18 107:12 108:23 121:12 123:8,9 126:9 128:10 137:23 141:2, 11,19 143:19 191:16 207:22 forget 188:10 forgivable 14:19 28:9,14 38:11 39:21 40:22 43:2,9 70:25 87:18 101:8 202:24 212:7,23 forgive 29:12,17 30:5,15 32:5,21 33:18 34:15,23 35:2, 5 36:2,13,23 39:14 41:4,24 45:8 46:7,14 50:11 52:14 59:2 60:8,18 61:2 70:9 130:4 139:10,17 149:18 150:19 151:5, 15 153:11,24 155:4 163:7 164:9,18 165:4,14 175:22 176:6,12,17 178:16 179:14 200:11 214:21 forgiven 15:12 21:20 27:15 31:11 42:11 43:10 56:8 57:7 60:10,20,24 65:5,15 92:24 93:18 94:3 96:14,17,22,25 97:10,14,22 98:4 104:23 108:4 109:3, 19,20 114:7,20 116:19,21 117:3,19, 23 118:4 121:8,25 122:10,13 125:9,22 127:16,22 130:24 131:7,17 132:6,22
--	---	--	---	---

136:2,13 138:22,23, 25 139:4,13 140:17 142:22 146:25 147:25 157:17 169:21 170:8 181:18 187:16 188:23 190:6 191:10,22 192:5 203:14,16,21 206:9, 16 208:19 212:10,18 213:20,24 214:8,17 215:24	180:22 181:12 182:20 183:8 187:17 188:8 189:5,14 190:24 192:8 196:15 202:22 203:11 205:19 206:11 207:18,24 209:8,17 211:5,19 214:9,19 240:8,25 242:5,6 243:20 244:21 249:18 250:14	<hr/> G <hr/>	guideline 222:16 gut 45:16 47:6,8 93:8	held 15:14 119:4 156:9 187:13 202:16
forgiveness 15:24 19:6,10,14,19,23 20:4,10 21:12 22:2,9, 14 23:20 24:11 25:2, 8 26:12 27:8 31:3,6, 22 32:11 33:3 35:14 36:4 37:25 39:5 40:14 41:17 42:16 47:25 48:21 49:17 51:18 52:21 53:11 54:14 55:5,23 57:5, 10 58:8,16,25 61:8 62:17 64:11 65:11 66:2 67:14,24 68:19, 25 69:10,24 70:18 71:10 72:5,13,17,22 73:3,10 83:9,11,15 92:15 98:24 101:16 102:2,7 115:13 127:5,12 138:20 139:7 147:12 156:24 169:17 171:21 173:7 179:2 180:19 181:11 183:4 186:8 187:5,24 196:6,13,17,20 200:2 203:2,10 208:7	formed 94:11 Forms 242:12 243:25 formulating 94:19 found 54:24 230:4 founder's 216:19,22 217:8,12,15,19 218:8 founders 216:24 217:5 247:15 founding 50:5 fourth 124:6,20 frame 172:3 186:20 frames 39:18 Frank 85:5 front 9:21 frustrating 45:21 fulfill 67:23 fulfilled 67:15 full 108:20 111:17,18 112:5 120:3 143:24 156:16,22 157:11 174:16,17 fully 130:19 fund 12:18 78:5 130:16 134:11 148:23 247:22 248:17 funds 11:6 24:16 future 24:6 27:10,15 33:14 42:17,19 45:9, 10 46:25 47:4 56:8 64:10 108:5 157:17 218:4	gain 39:6 51:17 226:21 gave 56:20 81:25 82:4,20 84:5 97:22 141:4 150:20 gears 184:17 general 7:2,6 25:10, 20 32:13 34:11 39:20 48:25 57:12,25 58:20 59:5,9 60:22 63:22 105:18,21 generally 12:8,13 34:17 45:15 53:5 57:22 80:24 87:10 137:3 157:16,20 208:21 225:9,10 gentleman 143:5 give 7:23 11:19 12:14 25:11 30:14 40:18,20 64:2 69:23 71:19 82:15 83:18 98:6,10 105:2 139:5 174:3 184:21 188:14 203:23 214:18 giving 13:8,25 28:9 29:5 30:24 159:3 goals 62:11,18 163:12 214:23 good 5:2 6:12 13:16 14:2,14 33:8 34:11 38:6 41:19 47:14 48:4,6 193:5 grant 226:15 228:5 granted 130:19 226:16 236:16 grants 240:8,13 gratification 24:16 27:23 28:4 114:17 great 45:13 82:7 Greenberg 6:5 guess 23:4,22 55:16 112:18 160:7 190:9 206:18	<hr/> H <hr/> hair 178:2 half 73:19 91:18 244:7 handle 249:21 happen 31:25 33:12 44:20 180:2,25 181:3 188:11 203:4 happened 34:3 180:6 204:10 209:21 happening 31:24 43:12,17 45:5,18,24 64:20 196:20 happy 15:7 hard 47:8,9 127:19 153:15 HCM 82:24 HCMFA 78:15 136:2 140:13,19 149:16,19 164:5,10 175:16,24 182:10 248:22 249:24 HCMS 249:16,22 250:5,11 251:7 HCMSI 138:7 141:16, 20 151:16 HCRE 132:2 137:6,9, 24 141:8,12 150:23, 24 151:6 164:24 165:5 176:13 247:21 249:4,15,22 250:5,11 251:7 head 55:20 hear 6:13 heard 68:15,18,23 72:11 73:2 84:17 85:5 99:13,15 205:24 209:18 216:17 243:8 248:3,11 hearing 93:6 hedge 11:6 12:18	helpful 196:8 Hey 234:7 high 7:5,7 43:13 58:22 203:21 247:9 250:15 Highland 5:21 6:18 8:7,12 15:14,24 19:7, 11,15,20,24 20:5,10 21:13,15 22:2,8,13 24:22 25:19 56:20,22 75:15 78:5 79:24 80:4 85:11 88:10 89:15 90:5 94:21 95:14 96:13,22,25 97:14,18,22 98:3 99:25 102:18 103:15 104:18,21,23 107:12, 21 108:11,14,16,22 109:11 115:12 117:19,23 120:4 121:12 123:8 126:9 128:10 129:18 130:4, 15,16 131:13,25 132:16 133:17 134:11,23 136:13,21 137:9,23 138:7,14 139:16,18,23 140:13, 17,22 141:2,7,11,15, 19 142:2,13,22 143:10,13,17,19 144:15 145:2,10,23 146:18,25 147:7 148:22,23 149:17,22 150:18,24 151:4,9,14 152:18 153:4,10,17, 24,25 155:3 156:9 157:21,22 158:2,15 159:2,15,17,19,24 160:4,14 162:13,25 163:3 164:4,8,14,17, 24 165:3,8,13,15,24 167:10 171:2,15 172:23 173:7 174:5 175:22 176:5,12,17, 18 178:10,15,25 179:13 185:4,7,18 186:3,12 190:6,16, 20,25 191:9,16,21 192:5 195:17 198:23 202:16,20 204:7 206:17,20,22 207:2,8 212:8,24 213:6

222:24 223:4 224:18 233:21 242:20 243:3, 17 244:3,9 247:20, 21,23,24 248:14,16, 17,23 249:2,3,8,12, 16 250:6,15,17 251:5	hundreds 96:23 Hurley 95:2 96:9 hypothetical 38:25 44:5 46:16,18 47:17 50:24 51:24 53:22 54:2,12 55:3 65:19, 24 66:13 67:3 70:8 71:4 109:17 188:14 189:11 hypothetically 45:25 46:4 50:4,10 52:2 53:9 59:15 157:22 hypotheticals 54:18	important 33:12 49:25 59:8,13 115:3 210:23 219:19,24 impossible 37:4 44:21,25 impression 45:17 64:14,17,18 97:4 inaccurate 216:6 incent 28:20 60:3 incenting 31:20 incentivize 27:10 include 11:11 72:6 104:8 114:11 135:12 170:11 208:7 223:16, 25 227:3 231:9 241:15 247:3 included 78:10 120:4 185:5 223:12 224:5,19,21 227:17 229:24 231:13 233:3 237:14 238:17 239:8 240:21,23 243:18 245:7 including 42:3 81:12 income 114:7,21 161:5 163:11 170:18, 20 222:24 223:5,9, 12,17,21,25 224:3,9, 11,13,17 229:25 230:5 231:4,10 243:12,16 244:3,11 246:5 incomplete 124:22 inconsistent 214:15 incorporate 223:4 incorrect 220:22 increase 160:4 increases 226:19 incurred 145:9 independent 54:6, 23 indirectly 56:13,23 248:7 individual 26:5 32:14 33:5 36:6 56:20 114:22 118:25	188:16 189:11 individual's 32:25 49:20 63:2 individually 95:17, 18 individuals 95:4 98:2,6 114:8 116:7 118:5,10,12 147:20 206:10 247:4 industry 10:24 13:15 49:11,21 50:2,5,21 51:12 52:4,14 53:7, 17 65:6,21 66:21 67:12 69:5 100:19 102:8,14,17 138:17 182:16 217:3 219:8 220:17 221:21,25 influenced 94:12 inform 97:13 181:10 187:20 188:3 information 13:18 24:25 25:5,15 26:19, 23 30:17,20 31:12 32:7 34:14 35:6 38:3 39:10,12 43:21 44:6, 15 46:12 47:3,7,14, 18 48:2 53:24 54:13 55:6 56:3 62:22 64:9, 24 65:23 66:15 78:4, 14 88:8 98:11 99:11 102:23 103:8 104:14 105:3,6 106:3 116:4 130:2 146:17 156:16 157:3 168:7 173:5,10 174:4 180:11 192:2 194:2,13 200:14 202:20 210:12 218:5 225:5 232:21 236:2 239:14 241:21 243:16 245:24 246:13 informed 16:8 22:16 30:19,22 31:2 67:4,7, 9 71:13,17 117:2 183:13 187:3 195:14 inquiry 143:15 ins 59:11 111:14 instance 72:25 115:13	institutions 11:13 intended 22:17 24:5 27:18 92:24 93:14 109:20 112:23 114:19 215:23 intent 23:18 25:2 26:3,7 92:25 108:4 intention 188:18 inter 207:4 interest 18:2 28:23 58:2 59:6,10 61:25 81:12 82:22 108:16, 20 111:4 127:6 131:21 132:25 134:15 135:13,16,21 137:11,18 138:18 139:11,14 142:18 143:25 152:16 153:18 154:15,20 178:9 191:2 195:16 197:15 198:9 199:20, 25 200:20 201:2 202:14 203:9 204:2 247:21,25 248:8 interesting 127:2 interests 99:10,25 interplay 185:15 interpretation 132:12 interrupt 210:5 intertwined 207:4 224:4 interview 90:9 91:21 92:2 94:18,22 95:3 98:12 interviewed 25:18 94:23 99:3 104:17 105:12 147:21 213:21 215:25 interviewing 91:3 interviews 90:4 95:7,10,13,22 97:9 212:6 introduction 103:19 205:4 invest 24:14 114:19
Highland's 83:19 84:2 99:9 108:23 119:12,14 120:22 123:16,20 126:15 129:13 133:9 136:17 148:9 158:6 161:10, 17,25 166:12,19 167:22 169:6 177:9 181:24 190:2 191:8 246:12 250:12 Highland-related 224:14 highly 31:25 139:2 214:23 hint 163:23 hire 13:10 52:6,7 histories 34:7 history 32:10,13,20 33:2,11,21,24,25 34:12,15,24 35:7 49:2,20 62:23 63:3 66:16 68:20 113:6 195:25 216:10 hold 188:22 232:2 holder 99:24 holds 99:9 home 9:19 home-field 13:13 hope 68:11 128:14 180:23,24 181:2 183:9,10,11 184:20 192:12 horses 188:22 hour 73:19 91:17,18 hours 91:17 how's 10:11 HR 52:9 human 56:21 hundred 46:5,7	I idea 25:22 31:23 37:11 44:20 46:23 50:25 52:16 59:6,23 60:4 63:2 65:4 155:11 170:9 173:2 243:5 ideal 34:2 36:17,20 37:13,17,18 57:17 identification 76:21 119:16 123:18 126:17 129:15 133:11 166:14 193:15 230:11 231:17 233:17 236:9 237:22 239:2 242:7 identify 12:13 18:14 78:11,22 93:3 98:3 204:17,20,24 225:3 identity 70:11 ignore 188:12 immediately 51:21 imminently 68:3 impact 33:7 48:9 107:23 impacted 94:13 implies 127:13 importance 45:4 49:22 57:18 59:12 60:12 64:19 163:12			

invested 24:17 158:20	12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1,6 75:1 76:1,23 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1,19 120:1,18 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1,6 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1,24 164:1 165:1 166:1,6 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1,5 183:1 184:1 185:1 186:1 187:1 188:1 189:1,25 190:1 191:1 192:1 193:1,5,17 194:1 195:1 196:1 197:1 198:1 199:1	200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1,23 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1,17,20	Kornfeld 9:6	lieu 104:2,11 105:5, 17,25 106:5,18,24 109:10 112:12 113:22 205:11 206:3
investment 11:3 84:18,22 85:3 99:8, 24 101:16 145:13 146:12 158:25 159:3, 7		L	lifetime 145:20	
investments 23:23 92:21 162:13		L.P. 5:22 75:15 82:24 139:24 190:17,20	like-to-like 239:19	
involve 12:21		L.p.'s 85:11	likelihood 43:4,16 44:16 45:10,23 47:15 64:10,14,19 138:22 203:14,20	
involved 7:17 12:16, 25 28:22 53:10 92:5		label 234:9,11	limited 230:3	
involves 7:9		lack 210:24 211:3,20	lines 87:7	
issuance 182:19		laid 69:6	liquidity 46:22	
issue 47:20 49:22,24 50:8 73:15 154:11 181:14 191:3 247:15 250:21,25		large 13:13 52:15 117:20 217:4	list 77:21 81:21 124:21,22 247:9	
issued 121:3 131:14 137:9 138:6 141:25 148:23 150:24 152:17 169:11 177:15 182:10 184:14 231:20		larger 53:4 116:24 117:17	listed 81:11 110:10 232:14 234:20	
issues 11:3,7 47:19 71:24 180:7		largest 117:2,18 191:15	listen 13:17	
issuing 238:16		late 7:12 15:11 16:16 27:9 92:14 98:23 103:2 171:25 172:3, 10,23 177:4 180:19 200:17 208:18 248:22	listing 82:22 146:20, 21	
item 124:20 167:7		Laura 251:20	litigation 7:3,8,9,16 8:8,13 72:15 73:5 110:3,5 173:23 174:4,7,10,24 175:3, 5,9 188:24 194:3,4	
items 175:5 222:23		law 82:2,3,12 86:25 87:2,12 91:11 189:12,16	living 145:16	
J		Lawlor 95:2 96:7	LLC 141:8,12 164:24 165:5 249:4	
James 14:23 75:19 141:25 158:2		lawsuit 26:13,19 27:2	loan 8:2,4 17:12 18:13,23 20:9 25:13 26:8 27:18 29:12 30:5 31:9,22 32:5 33:4 35:13 37:25 38:12 39:5 40:14 41:16 46:14 47:25 49:17 51:18 52:21 54:7 55:5,23 58:10 59:7,11 61:8 62:17 63:24 65:5,9 66:2 67:24 68:19,24 69:9 71:10 72:5,13,17,21 73:3 79:23 80:15,19 81:5,20 82:8,21 83:8, 11,15 88:5,19 96:25 97:18,21 98:3 102:2, 7 106:18 107:12,22 108:22 109:2 117:2, 18,21,23 118:14,24 122:17,22 123:3,8	
January 108:19 171:22 184:9 195:11 198:10,22 199:4,15 204:15		lawyers 234:3		
Jersey 9:19		lead 33:8		
Jim 49:24 145:14 177:14		leaders 12:21		
job 50:14 169:23		learn 97:8 110:8 130:2		
John 5:20 6:16 76:18 234:7		learned 106:16		
Johnson 5:1 6:1,12 7:1 8:1 9:1 10:1 11:1		leaving 122:10		
		legal 81:2 89:2		
		letter 75:3,6		
		level 7:5,7 24:6 43:14 58:22 71:21 246:22 250:15		
		liabilities 173:14		
		liability 173:24		
		K		
	kind 31:13 42:15 50:15 126:2 207:4 227:10			
	kinds 72:20			
	knew 68:10 100:8 171:6 189:10			
	knowing 14:7,9 60:18 61:2 169:23 205:17,21			
	knowledge 13:13 23:17 35:2 40:24 41:6 49:9 52:3,19 57:3 65:17 67:11 68:19,22 78:21 84:14,21,23 97:21,24 98:5 110:19 160:3 174:15 202:7 204:5 207:12,15,19 249:13			
	knowledgeable 32:9,19			

124:5,6,7,16,17,18 128:10 129:7 130:15, 19,23 131:3,7 132:5, 21 138:22 139:8,17 140:18 141:3,12,20 142:7 143:20,24 146:6,17,24 147:7 149:18 150:19,25 151:6,16 153:11,25 155:4 157:15,16,19 158:25 159:4,6,11,14 164:9,19 165:4,14 175:23 176:6,13 178:16 179:2,14 190:7 191:10,15,22 192:6 194:21 195:19 196:17 198:24 206:3, 15 207:5,13,16 213:16,22 214:22	93:14,18 94:2 95:24 96:13 97:9,14,25 98:25 100:19,21 101:8,17 102:16 104:2,10,12,22 105:4,9,17,25 106:5, 24 107:5 108:2,9,10, 14,17,19 109:10,14, 19,21 110:3,5,10,12, 13,20,25 111:17,18, 19 112:4,7,9,11,12, 16,19,23 113:6,9,10, 21 114:5,7,15,18,24 115:6,13,21,24 116:17,18 117:7,15, 17 118:3,4,11,15,16, 20 119:20 120:4 122:5,12 123:10 128:16 129:3 130:4 136:2,6,12 137:2,24 138:6,19 140:12,22 141:7,15 142:23 143:16 146:8,21 147:14,17,19,25 151:8 156:22 157:5 159:16 162:12 163:7 164:4,14,23 165:7,23 166:23 168:8,14 169:3,20 170:7 172:9 173:8 178:9 181:11, 17 184:25 187:4 195:12,16 200:12 202:21,24,25 205:11 206:9 207:5,9,23 208:7,16,18 209:12 210:11 212:7,9,17,23 213:19 214:8,16 215:3,12,15,23	loss 42:3 171:2 172:17 lost 67:19 124:10 171:15 lot 7:16 11:23 12:20 13:11,24 16:17 47:8 59:3 108:2 109:14 184:21 189:24 lucky 68:3,6,12,14 lunch 184:20 luncheon 192:15	138:18 143:15 145:3 151:25 159:3 188:10 189:19 194:10 196:17 203:8,18,19 214:21 248:3 249:25 maker 29:7,9 30:3,25 32:9,12,19 33:17 34:14,22 35:4,12,24 36:12,23 37:24 38:11,18 39:5 40:12, 18 41:3,16,24 43:3, 20 44:5,14 45:7 46:13 47:17,24 49:14 50:11,13 51:4,6 52:3, 5,19 53:23 54:11 55:21 57:3,6,8,11,14, 19,21 58:4,6,9,15,20 59:14 60:7,17,22 61:7,12,19,22 62:6, 21 63:8,10,16 64:8, 24 65:12 66:3,14,23 67:13,21,22 68:10, 16,18 69:8,11 70:2, 24 72:12 73:2,8 93:3, 17 98:22 100:14,17 102:24 103:10,14 139:6,8 156:21 163:5 168:6 169:16,22 170:6,8 172:20,25 173:5 187:12 203:8 211:16 maker's 48:20 makers 12:14 30:10, 15 51:16 169:19 191:2 makes 188:24 190:10 making 30:4,18 40:22 62:2 65:3 69:23 102:13 103:7 109:18 112:21 195:15 196:11 manage 247:13 management 5:22 6:18 11:2 75:15 78:5 79:25 85:11 129:19 130:16 132:17 134:11 138:14 139:18,24 148:22 151:10 165:8,15 176:19 190:17,20 222:24 223:5 242:20	243:3,18 244:4,9 247:8,22,23 248:15 249:3 manner 215:5 March 75:2 mark 23:24 143:5 245:5,13 marked 44:10 76:20 119:11,15 123:18 126:17 129:15 133:11 166:14 193:15 230:9,10 231:16 233:16 236:8 237:21 238:25 242:7 market 7:19 27:24 101:6 115:7 218:2 220:7 221:25 244:19 marketplace 14:7, 11 159:11 Mary 49:24 material 180:16 181:17 182:17,23 materials 17:13 110:9 math 197:10 matter 6:24 75:8 79:10 89:16 maturity 127:6 meaning 81:2 meaningful 56:2 70:13 250:16 meaningfully 247:11 means 51:8 202:24 232:11 meant 144:25 213:22 measures 12:9 meet 76:10 90:21 memory 69:18 85:15 mention 213:2 mentioned 7:22 20:25 27:21 35:16 55:24 59:25 79:22 80:15 81:4 90:15
--	--	--	--	---

102:16 109:23 118:18 212:21 245:11 messed 133:23 method 226:24 methodology 219:8 Michael 5:24 163:22 166:3 middle 115:20 215:11 234:5 milestone 127:25 128:4 milestones 127:19, 24 milestones' 127:6 million 17:3,8 50:6,9, 12,19,24 51:24 97:5 117:7,10 122:6 134:15 137:10,17,19 138:11,15 142:2,14, 19 144:16,21 145:2, 11 152:9,18 153:5,18 154:21 158:7,16,21, 25 159:9 160:15,21, 25 166:5 167:11,23 168:13,18 169:24 171:3,16 172:17 173:9,15,19 174:19 177:16,21 178:3 182:12 185:2,14 186:3 188:16,19 194:21 195:7,12 197:5,9,17 198:15,23 200:19 201:6,10,12, 17,20,22 202:3,15 203:25 214:15 220:11,14,16,17,19 221:6,7,8,10,17 222:2,3,7 231:4 233:8,9 234:20 235:2,18 236:15 237:13 238:8 240:7, 11,23 241:3,10 244:7,13,15 245:2,3, 8,10,11,16 246:21 247:7 250:24 mind 80:20 221:3 minutes 91:19 192:13	missed 231:12 missing 111:24 misunderstanding 71:25 misunderstandings 69:16,20 mixed 72:9 modest 132:9 178:8 modification 22:17 23:19 27:14 42:9 56:7 77:14 204:18 209:12 210:11 modified 7:13 15:10 22:24 23:6 172:10 208:17 modify 80:9 89:10 moment 39:3 money 50:15 51:2 55:14 96:17 139:6 145:23 158:20,21 185:9,18,19 194:6 198:8 203:18,22 214:24 215:4 250:5 months 186:22 morning 5:2 6:12 Morris 5:20 6:10,16 9:6,9 73:18,25 74:5 76:19,22 77:2,19 89:19 103:17 115:16 118:8 119:10,17 120:12 123:14,19,25 126:13,18,20 128:18 129:8,11,16 130:8 131:10 133:4,8,12, 14,22 134:8 138:3 139:20 140:7 141:22 144:3 148:4 151:18 154:4 155:23 163:14, 20 166:3,11,15,17,22 170:13,23 173:11 175:11 179:5 181:19 182:4 183:18 192:11 193:4,10,16 204:25 205:20 208:12 215:9 218:10 224:22 229:21 230:8,12,25 231:14,18,23 232:16 233:13,18 234:13,16 236:5,10 237:5,18,23	238:5,22 239:3 242:3,8,10 251:10, 15,21 motivate 28:21 33:4 35:18 44:19 multiple 189:12 multiplied 220:18 multiplying 219:20 220:3 222:7 murky 33:25 34:6 <hr/> N <hr/> named 143:5 names 94:24 96:10 Nancy 6:6 99:7,13,23 145:22 narrow 49:22 nature 7:3 58:6,24 necessarily 57:23 61:14 needed 73:14 214:24 negotiate 61:10 66:3,7,10 67:8 159:11 negotiation 66:25 67:2 136:25 net 171:2 news 13:25 Nexpoint 78:5,14 131:14 136:6,13 140:23 141:4 149:24 150:20 157:23 158:3, 7,16,19 159:10,19 162:14 164:14,19 176:7 223:8,16,24 224:6 229:24 230:14 231:10,20 235:15 237:11 239:6 244:10 247:22 248:9,18,22 249:24 next-to-the-last 127:3 182:9 212:5 nice 76:10 nonbusiness	212:23 normal 246:25 north 201:21 Notary 6:9 note 60:2 80:22 81:3 121:3,8,12,16,21 125:4,9,13,21 126:23 127:4,11,15,16 131:13,17,25 132:5, 15 135:16,21 139:6 144:18,23,25 149:24 150:13,24 152:17 153:14 158:10 164:18 176:18 194:25 195:11 198:10,19,22 199:4, 15 204:15 note's 127:18 noted 193:3 notes 57:20,24 59:17 80:20,23,25 95:6,10 111:5,6,10 119:19 120:23 124:17,24 126:2,9 135:5,6,10, 11,20 136:18,23 137:9 138:6,11 140:9 141:25 147:4 148:19, 22 149:4,5,23 150:5, 12 152:3,4 154:11,15 156:3,8 158:10 164:3 167:7,12 168:18 169:6 170:11 173:18 174:17 175:13,16 176:24 177:2,15 182:10 187:13,16 188:23 190:18 191:3 194:7 196:12,25 197:16 199:21,25 200:20 202:16 203:8, 9,14 204:3,16 214:5 notice 243:11 noticed 195:19 nuances 13:14 number 9:13 11:19 12:8 16:20 60:9,11 61:16 76:16 88:3 117:11 134:4 166:6 181:21 228:8 231:9, 25 232:10 237:3 240:10 244:13	numbers 87:21 117:11 222:8 226:22 NXRT 235:3,11 236:23 238:8,13 239:13 <hr/> O <hr/> objecting 163:22 objection 28:7 67:17,25 107:15 109:12 111:11,20 118:7,9 135:22 147:10 150:6 156:11 157:14 160:6 161:12 162:3 168:16 169:8 170:2 174:25 178:11 180:13,22 181:12 182:20 183:8 187:17 188:8 189:5,14 190:24 192:8 196:15 202:22 203:11 205:19 206:11 207:18,24 209:8,17 211:5,19 214:9,19 240:25 243:20 244:21 249:18 250:14 objective 47:9 obligation 61:14 145:10 obligations 112:21 153:3 186:3 obligor 18:14 obligors 7:21,23 24:21 26:25 obtain 30:17 39:12 41:22 43:20 44:6 47:18 57:20 58:6 62:22 63:17 64:8,24 165:23 168:7 obtained 55:6 57:16 66:18 96:13 127:7 143:16 195:13,17 obvious 187:19 occasion 76:8 occur 24:2 32:6 43:5 44:17 45:11 47:5 182:17
---	--	---	---	--

Index: occurred..people

<p>occurred 7:15 23:24 182:24</p> <p>occurrence 56:9</p> <p>occurs 27:15</p> <p>October 88:16,17 123:2 186:19</p> <p>odds 215:4</p> <p>offer 67:8</p> <p>offered 7:4</p> <p>offering 21:24 22:6, 11 101:13,20,24 102:6,20 103:4,12 217:11</p> <p>officer 85:12 97:15</p> <p>oftentimes 47:15</p> <p>Okada 143:5,8,16,21, 23 151:21 153:22 154:2 167:17 168:15 178:20,24</p> <p>omissions 245:7</p> <p>one-year 202:5,12</p> <p>ongoing 174:10</p> <p>operate 93:15</p> <p>operational 71:21, 24</p> <p>operationalize 72:3</p> <p>operations 40:5</p> <p>opining 7:19</p> <p>opinion 20:23 21:24 22:6 32:8 35:11,24 40:11 48:18 67:22 73:15 94:11 101:13 102:6,20 103:4,7,12 107:25 115:6,21 116:5 118:24 203:7 211:6 215:12,19 216:2 217:11 227:2 228:11</p> <p>opinionated 13:23</p> <p>opinions 22:11 37:16 77:15 80:9 89:6,11 94:8,19 101:20,24 106:15 107:10,23 115:4 120:7 133:20 140:4</p>	<p>160:12</p> <p>option 226:13</p> <p>options 226:7,9,16, 20,25 227:4,10,14 229:6,15 236:20 240:22 244:12</p> <p>oral 20:17,19,21 70:24</p> <p>order 62:19 63:5,14, 25 64:4,6,21 65:8,10 104:15 157:9 232:25</p> <p>ordinary 193:25 233:22</p> <p>organization 36:7 71:9 207:6 233:24</p> <p>originally 16:16 57:16</p> <p>outs 59:11 111:15</p> <p>outsized 217:4</p> <p>outstanding 60:5 81:13 108:9 121:21 122:2,9,18,23 123:4 125:18 130:20 135:5 149:3,23 150:12 152:10,16 154:15 162:19 174:9 176:24 178:10 184:25 194:7 198:9</p> <p>overpay 51:7</p> <p>overpaying 51:5</p> <p>overwhelming 33:7</p> <p>owed 122:10 134:20 139:6 142:18 153:17 167:23 178:2</p> <p>owes 144:20 185:21 188:15</p> <p>owing 153:4</p> <p>owned 56:23 156:10 157:12 158:23 167:15,16,17</p> <p>owner 162:6,13 248:13</p> <p>owners 12:17 246:17,23 247:2,15</p> <p>ownership 161:14 167:19 191:2,5</p>	<p>247:21,25 248:11 250:11</p> <p>owns 56:13 158:3 248:7</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P&I 40:5</p> <p>p.m. 192:15,16 193:3 251:13,14</p> <p>Pachulski 5:20 6:17</p> <p>package 40:4 41:5</p> <p>packages 217:5</p> <p>pages 87:7,8,20</p> <p>paid 24:18 27:23 32:24 48:13,19 49:24 50:3,6,22 51:18,25 52:4,20 59:10 64:25 108:16,20 110:6,10, 20,25 111:10,17,22 112:5,7 113:9,21 143:23 198:15 199:13 200:19 201:13 216:24 223:18 225:21 241:13 247:9 249:24 250:5</p> <p>pain 128:22 243:24</p> <p>painful 120:17</p> <p>paper 119:22</p> <p>paragraph 103:25 106:21 114:2 121:2, 7,15 122:16,21 124:12 125:12 126:21 128:9 130:15, 23 131:2,6,13,16,24 132:4,15,20 135:3,4, 25 136:5,11 137:5,22 138:4 139:15 140:12, 16,21,25 141:6,11, 14,18,23 142:22 143:4,24 146:23 148:21,25 149:10,15, 17,21 150:17,22 151:3,8,13,19 152:2 153:9,21 154:6 155:2,7 163:25 164:7,12,13,16,22,23 165:2,7,12,18 175:20 176:3,5,10,11,15,16</p>	<p>178:15,19,23 179:12 182:9 205:9 212:6 231:8</p> <p>paragraphs 149:2 151:20 176:22</p> <p>parse 17:7</p> <p>parsed 112:15</p> <p>part 13:15 14:6,9 26:13 28:14 30:5,16 33:18 35:5 36:13 37:25 38:12 39:14 40:22 41:4,25 44:22 48:22 61:9 63:19,21 65:3 69:10 74:22 94:14 96:14 97:23 102:15 104:23 107:13 109:3 123:10 125:9,22 128:11 130:5 131:8,18 132:6,22 136:2,14,25 137:24 139:17 140:18 141:3,12,20 142:23 143:20 146:25 147:8 149:18 150:19 151:5,15 153:11,25 155:4 163:8,12 164:9,18 165:4,14 175:23 176:6,12,17 178:16 179:3,14 188:19 192:6 207:16 212:19 226:6 240:13</p> <p>participate 91:8</p> <p>parties 5:13 23:18 61:23 78:7,16 131:3</p> <p>Partners 141:8,12 164:24 165:5 176:13 249:4</p> <p>partners' 173:14,17 174:14,23</p> <p>partnership 121:3 134:19 144:20 154:11 182:11</p> <p>partnership's 135:5 149:3 176:24</p> <p>party 58:5 93:19 94:4 159:12</p> <p>pass 247:16</p> <p>passage 228:9</p>	<p>passed 245:19,25</p> <p>past 26:16 27:25 32:24 49:24 92:23</p> <p>patience 73:20 120:19 189:25 251:18</p> <p>pause 190:10</p> <p>pay 18:16 32:13,20 33:2,11,24,25 34:11 48:25 49:20 53:6 63:2 65:6 88:25 105:10 111:18 138:23 139:10,14 217:5 220:5 221:13 224:5</p> <p>payable 137:13 154:21</p> <p>payee 190:17</p> <p>paying 24:15 104:11 112:9,11 122:11 139:3 214:14 249:17</p> <p>payment 111:4 132:9 134:19 136:17 178:8 195:21,25 197:20 198:5 199:3 200:17 201:5,16 203:9 216:10 244:8 249:11 251:6</p> <p>payments 71:23 134:25 138:18 153:3 195:15 196:11,17 197:8,15 199:24 200:25 201:19,24 202:9,14,25 203:18, 19,25 214:4,21 244:6,9 248:22</p> <p>payout 44:25</p> <p>pays 52:23</p> <p>PDF 120:14 242:8</p> <p>peer-reviewed 222:16</p> <p>peers 157:10</p> <p>pen 119:21</p> <p>pending 5:19 7:7 26:18</p> <p>people 13:21,22 34:6 37:15 49:21 50:14,21</p>
---	---	--	---	--

Index: people's..purportedly

51:25 53:9 65:6 71:13,15,17 72:9,10 188:10,11 211:8 212:15 219:5 247:13 people's 69:17 percent 122:9 154:16 167:18 169:5 216:3 233:9 perform 27:10 performance 23:6 24:6 28:24 127:20,23 236:17 237:12 238:9, 14 period 7:11,18,20 17:25 18:22 37:22 104:2 105:4,24 106:4,24 134:25 139:24 148:10 162:20 166:20 172:17 177:10 183:23 184:8,13,15 201:13 202:5,12 204:7,11 205:10 213:23 214:6,15 216:10 218:14,18,21, 23 219:4,9,15,23 220:2,6,8,10,25 221:4,19,22 226:20 228:8,18 229:5 242:12 244:2,17 permit 46:3 Perniciaro 91:12 person 19:15 20:5 29:10,21 30:3 90:21, 23 99:19,25 103:6 111:13 127:17 250:8 personal 10:7 245:20,25 246:14 247:16 personally 11:15 146:13 186:2 perspective 32:25 220:25 pertaining 15:23 21:25 pertains 129:2 157:5 perusal 118:21 petition 85:13 108:8,	9 111:5,19,23 160:16 198:2 202:6 philosophy 92:9 phone 10:3,8 90:21, 24,25 phrase 29:6,8 30:2 40:2 213:18 phrased 216:20 phrasing 185:22 picky 221:24 piece 119:21 pitch 13:8,15,19 place 7:13 23:13 68:4 86:13,14 188:4,7 189:4 places 216:18 plan 59:23 188:18,19 plans 14:15 platform 15:14 pleading 99:6 pleadings 75:12 78:17 plural 8:5 point 108:4 112:21 116:20 153:2 157:17 164:13 178:8 200:24 205:8 208:15 218:4 219:6 220:24 221:2 226:19 247:12 pointed 244:22 245:6 poorly 32:24 portfolio 12:19 15:13 23:23 92:21 208:20 portion 48:15 87:3 120:21 130:23 132:21 136:12 140:18 141:3 142:23 151:5,15 182:5 186:8 199:3 225:19 position 62:2 63:23 246:19 potential 115:23 173:8,23 174:4	215:13 potentially 169:20 207:5,10 practical 59:4 practicalities 39:18 practice 5:8 25:10, 20 72:9 100:19 101:7 104:11 105:8,19,21 114:5,15,24 115:3,9, 12,14 116:14 119:9 130:3 200:11 202:21 206:22,24,25 208:3,6 212:8,23 213:9 practices 7:18 53:6 precision 158:12 preliminarily 9:12 premarked 76:16,24 119:12 193:12,18 premium 204:2 216:19,22 217:8,12, 15,19 218:8 preparation 78:13, 23 prepared 10:14 91:16 120:8 167:21 168:2 171:7,10,13 193:25 233:21 241:18 preparing 71:23 90:3 174:6 presentation 219:12 222:17 pretty 210:3 previously 27:19 150:12 234:3 price 23:24 47:11 226:14 Pricewaterhouseco opers 84:2,15 186:23 Pricewaterhouseco opers' 84:10 183:22 primarily 247:7 principal 81:12 82:22 108:16 111:4 122:10 125:3,17	127:5 131:20 132:10, 24 134:15 135:11,16, 21 137:11,18 138:15, 18 139:11,14 142:18 152:16 153:18 154:20 178:9 195:11, 16 197:15 198:9,14, 19 199:20,25 200:20, 25 202:14 203:9 204:2 principals 110:10 prior 18:4 25:9 26:14 52:3 75:16,19 76:3 78:12,23 81:20 82:5, 17 85:13 90:18 91:5 102:25 104:18,20 106:16 107:11 108:8 111:5 116:14 127:6 134:20 160:15 182:18 196:5 212:6, 14 221:13 224:8 236:20 238:16 private 12:18 72:10 115:6 211:24 214:25 246:17,22 247:14 probabilities 62:14 probability 31:24 43:11 138:25 196:19 214:22 Procedures 5:18 proceeds 24:22,24 27:2 43:25 46:20 produced 88:9 89:16 119:8 194:2,4,10 234:2 professional 209:15 228:10 professionals 28:21 115:24 116:18 215:15 profit 42:3 program 12:23 35:14 37:25 38:12 39:5 40:14 41:17 45:3 48:21 49:17,18 51:19 52:21 54:14 55:5,23 57:5 61:9 67:15,24 68:19,25 69:10 71:11 72:13,15,17,22 73:3 83:11,15 102:3,7	programs 12:24 72:6 project 12:20 promissory 57:20, 24 80:20,22,23 81:2 121:3,8,12,16,21 136:22 137:9 138:6 141:25 144:18 149:23 150:24 177:15 182:10 202:16 214:5 proportionality 31:21 32:3 proposal 66:2 68:3,7 proposed 54:7 66:6, 9,24 prospective 226:25 prove 107:20 provide 6:23 9:3 11:16 12:5 13:3 22:17 27:18 42:25 48:12 98:13 114:19 145:16 provided 78:23 79:8, 13 83:22 86:16 87:11 90:4 98:12 113:5,22 115:22 144:25 215:12 230:21 232:8 248:16 249:2,11 251:5 providing 46:22 160:5 250:12,16 provisions 59:7 127:5,12,21 187:24 188:4,7 proxy 226:23 PTE 242:20 243:3,18 244:4,9 public 6:9 225:6 247:5,7 purchase 226:14,16 purchased 144:18, 23 purely 47:5 purported 172:13 purportedly 99:9
--	---	---	---	--

Index: purpose..rendered

<p>purpose 24:10 25:6 26:17,20 27:4,8 91:3 92:9,22 145:16 161:25</p> <p>purposes 76:25 179:23 226:9</p> <p>pursuant 31:10 56:7 111:6 179:15 187:16 188:23 248:18</p> <p>put 7:13 9:14 10:10, 11 15:6 68:4 69:19 70:2,6,21 71:25 76:14 119:10 126:6 172:5 193:10 230:8 231:14 233:13 245:4, 5,13</p> <p>putting 101:18 137:2</p> <p>Pwc 84:4,5 175:3 184:2</p> <hr/> <p>Q</p> <hr/> <p>qualifies 182:22</p> <p>quantifiable 45:16</p> <p>quantify 161:16 217:14,18 218:8 246:14 250:10</p> <p>quarter 97:5</p> <p>question 31:4 49:7 52:17 67:19 72:23 79:17 82:7 97:19 106:20 109:14 136:10 158:13 160:9 176:3 189:2,6,7,9,13, 17,21 196:21 209:21 210:2,17,21,25 211:4,15,21 216:12 245:5,13</p> <p>questioning 93:12</p> <p>questions 80:13 93:7,13 184:19 189:22 194:12 211:11 215:18 240:18,19 241:10 251:16,25</p> <p>quote 149:2</p> <p>quoting 114:4</p>	<hr/> <p>R</p> <hr/> <p>raised 211:10</p> <p>raises 211:11</p> <p>ran 92:6 246:15</p> <p>range 17:3</p> <p>ranged 97:4</p> <p>rapid 54:20</p> <p>rapidly 188:3</p> <p>rate 59:10 154:15 218:2 220:8</p> <p>rates 18:2 28:23 58:3 59:6</p> <p>rational 203:18</p> <p>rationally 203:8 215:2</p> <p>reach 10:10 153:2</p> <p>reached 178:25</p> <p>reaching 219:8 222:6</p> <p>read 11:10 15:5 17:4, 5 57:23 87:25 104:6, 16 114:9 116:2 122:8 137:20 154:23 215:16 234:14</p> <p>reading 127:4 144:22</p> <p>reads 103:25</p> <p>ready 82:19</p> <p>real 32:22 247:6,12 248:10</p> <p>realize 226:20</p> <p>realized 114:6</p> <p>reason 37:21 88:2 110:23 136:21 150:10 168:12 173:4 188:5 217:17 219:18, 23 230:3</p> <p>reasonable 54:8 61:13 211:21 218:21 219:5 221:3</p> <p>reasonableness 22:12 100:23 101:10,</p>	<p>11,14</p> <p>reasons 10:7</p> <p>recall 16:18 17:9,13 18:19,21,24 19:2,4 20:24 21:2,5,8 69:2 72:17,25 73:6 74:14, 24 75:13 78:12,18 79:19,25 80:5 81:19, 22 82:3 86:5,6 87:10, 21 88:3,11,22,23 90:24,25 91:20,25 93:6,20,24 94:24 95:20 96:21 97:16,17 109:15 110:12 112:6 117:12 152:11,12,13 163:16 172:2,4 186:15 195:5 226:4 227:22 228:20 243:13</p> <p>receivable 135:5,7 149:4,5 152:4 176:25 177:2</p> <p>receive 88:15,17 89:15 112:12 228:6</p> <p>received 24:22 50:9 79:4,17 82:10,12 86:18,20 88:4,8 104:2,22 105:4,17,24 106:5,17,24 108:10, 13 109:9 110:2,25 130:6 161:9 196:24 199:8 205:10 206:3 224:12,18 225:25 227:9,15,16,18 228:13,17,23,24 229:4 236:20,23 237:10 238:7,13 240:6,13 242:11,17 243:11,17 244:16,18 246:11 249:16,20,23 250:11</p> <p>receiving 79:20 244:3 251:6</p> <p>recently 18:10 82:6 86:14 150:5</p> <p>recess 74:3 192:15 251:13</p> <p>recipient 213:16</p> <p>recognized 114:8,21 223:19</p>	<p>recollection 82:24 85:9 147:5,17 150:11 172:7,12</p> <p>recollections 97:7</p> <p>recommend 34:13 35:8 43:19 51:15 52:5 63:7 64:23 70:10,14,20 71:16 73:7,12 181:5,9,13, 14</p> <p>reconciled 111:4</p> <p>record 5:10 70:11,19 76:12 95:13 104:16 107:21,24 234:15 237:7</p> <p>recorded 190:15</p> <p>recording 5:14</p> <p>records 72:8 234:12</p> <p>recovery 174:15,17</p> <p>reduced 125:4 152:21 153:4 245:17</p> <p>refer 30:3 82:5 127:24 147:16 177:7</p> <p>reference 72:6 121:16 122:4 125:13 126:22 128:15 129:6 130:22 131:12 134:10,14 138:5 141:7,15,24 144:5 177:14 182:10 208:3 234:5,23 236:14 242:20 243:2 247:12</p> <p>referenced 81:5 143:24</p> <p>referred 16:25 83:16 126:2 204:16 213:13 217:19 245:2</p> <p>referring 17:11 120:14 162:23 213:14,17</p> <p>refers 127:25 131:2, 25 132:15 151:8 155:7 205:14 216:18</p> <p>reflect 21:12 75:7 83:14 226:22</p> <p>reflected 194:22 219:21</p>	<p>reflects 214:4</p> <p>refresh 85:8 147:5, 16 172:6,12</p> <p>refreshed 85:14</p> <p>reinvest 25:11</p> <p>reinvested 24:24</p> <p>reinvesting 25:22</p> <p>relate 51:24 79:9,15 116:14 151:20 168:13 196:4 242:16</p> <p>related 118:16 230:5</p> <p>relates 136:5 137:6 140:12 143:4 148:22 153:21 154:7 165:7, 18 172:17 178:19 223:8 225:12 226:7 227:24 235:2 241:23</p> <p>relating 35:7 38:3 84:25 92:15 98:7 148:19 149:16 181:10</p> <p>relative 52:17</p> <p>relevant 16:19 17:17 33:2 35:12,16 48:20 111:2 145:24 146:4 157:18,19 171:16</p> <p>reliability 210:17</p> <p>relied 94:19 104:15 115:11</p> <p>relies 180:10,15</p> <p>reluctant 246:16</p> <p>rely 54:12 55:21 94:8 120:6 219:7</p> <p>relying 106:8 133:19 140:3 148:14 190:4</p> <p>remember 15:15 18:18 20:20 21:6 80:3 84:4 87:14 89:4 109:4 152:8 171:24 194:20 213:4 218:25</p> <p>remote 5:14 9:10</p> <p>remotely 5:11,12</p> <p>rendered 27:20 249:12</p>
---	---	---	--	---

Index: reorganization..shortly

reorganization 188:18,20	represented 189:11, 16 235:14	return 250:18 251:6	sale 15:12 42:11,21 208:19	116:5,10,16 127:3 134:18 135:4 149:9 152:2 176:23 205:9 208:2,15 209:2 210:9,19 212:5 216:2,6,16
repaid 138:15	representing 62:3 99:16	returns 162:11 243:11	sales 13:8,15,19	separate 12:7 146:21
repay 215:3	represents 235:12	review 40:12 75:11 87:16 112:3 130:2 190:6 243:10	satisfaction 22:19	series 80:13 241:14
repeat 67:18 209:9	reputation 209:16	reviewed 66:18 77:22 78:3 79:22 129:24 225:5	save 243:24	serve 14:16
report 10:13,14 11:10 15:5,8 16:25 17:22,23 18:6 40:4 42:10 48:12,15 76:15,20,23 77:10,15 78:13,24 79:10,15,21 82:6,11,18 83:5,16 84:7 89:7,12,17,20 90:3,18 91:5,16 93:21 94:14 98:8 101:6 103:18,21 104:9 106:22 107:3,8 110:24 112:14 114:12 115:17 120:8 129:22 140:4 160:11, 13 167:22 168:3,23 169:12 171:7,11,14, 24 172:7 174:6 181:15,21 182:13,18 183:7,23 185:25 195:23 200:6,10 204:19 205:2,5 207:21 216:18 217:20,21 218:7,11 230:21 231:7 232:9, 13,15 233:3 237:2,15 238:17 241:18 243:19 247:10	request 82:21	reviewing 78:12 80:8	scenario 36:22 43:3 67:13 69:25 70:16	served 8:23 85:11
reported 142:7 180:24 191:24 210:8 223:6 244:2 246:6	require 182:16	revolved 87:13	schedule 81:9,11 82:22 149:25	Service 247:23
reporter 5:2,5	required 53:4	revolving 149:23	schedules 81:15,18 118:15	services 9:3 10:23 12:22 13:4,12,23 27:19 49:11 53:17 101:9 115:7 132:17 138:14 139:18 151:10 165:9,15 176:19 216:23 248:17,18,23 249:2, 3,7,12,16,19,23 250:6,12,16 251:6
Reporting 5:6	research 52:9 54:24 225:3	reward 23:21,25 24:5 35:22 44:19,23 92:20	scope 58:17 156:22	serving 246:12
reports 129:18 180:3	reserve 175:5	rewarded 62:18	screen 9:14 15:6 76:15,24 89:21 119:11 129:12 151:24 163:19 172:6 182:8 193:11,19 212:5 233:19 239:23	set 77:15 89:6,11 103:9,13
represent 6:18 15:2 99:5 128:24 152:14 193:21 194:3,24 195:10 198:21 232:12 233:21 236:11 244:5	Residential 223:9, 16 229:25 230:14 231:10,20 235:15 237:11 239:6 244:10	rings 10:8	scroll 126:4 128:13 134:3 149:12 170:13 177:13 181:19 234:4, 8 237:9 238:4 240:5	seven-year 37:22 218:17,23 219:9,15 220:2 221:22
representation 129:5 152:20 244:14	respect 26:17 69:23 98:24 176:21 196:25 251:7	risk 33:9 68:5 174:4, 10,24 175:3,9	section 120:23 125:25 126:3 128:14 130:11 132:14,15 148:19 149:10 155:21,25 156:2 157:4 164:3 180:21 181:21,25 182:8,25 183:6,13,16 184:8	severity 5:7
representative 220:7	responsibilities 92:4 94:17 225:4	Rivera 5:4	sections 126:5	shared 109:25 146:17 248:18 249:7
	responsibility 61:22	role 93:14 94:10,11, 13,16 95:23 222:2	seek 34:14 64:24	shareholder 143:9 180:5
	rest 125:25 128:13	roles 247:10	select 222:18	shareholders 61:23 180:9
	restate 158:13	roll-up 81:6 150:12	sell 13:7 46:7 47:10 49:4,5,8	shares 226:7 227:25 228:4,5,9,12,18,22 229:4,7,8,16
	restricted 226:7 227:24 228:4,12,18, 22 229:3,7,16 235:3, 7,20 236:15,23 237:10 238:8,13 239:6,8,9 240:21	rolled 118:16	selling 46:18 49:7 215:4	sheet 40:4 42:4 147:16 166:25 167:4, 11 173:12,23 174:2, 21 175:7
	restructure 204:15	room 5:9	sends 9:6	shift 184:17
	restructured 194:25	rough 11:19 60:13 62:9	senior 12:21 28:21 50:5 203:16	short 184:20 251:11
	result 250:12	roughly 197:10 201:9	sense 184:22	shorter 221:5
	results 162:22,24	Row 197:21	sentence 15:7,20 90:2 91:4 103:25 104:8 106:23 107:4, 17,19 114:2,11	shortly 180:2
	retained 9:2 11:15 12:3,14 14:25 75:19, 23 76:5	Rows 204:16		
	retention 127:16	Rule 5:17		
	rethink 205:23	rules 5:17,18,19 182:22		
	rethought 200:12	run-of-the-mill 112:20		
	Retired 196:25	<hr/> S <hr/>		
		salary 225:20		

show 180:23 181:7 182:5 183:15 194:5 229:11 234:8	sitting 9:18 72:16,21 73:6 172:2 226:5 245:10	specific 7:14 101:3, 10 127:5,12	237:21,25 238:7,25 239:15,24 242:19,23	straightforward 93:11
showed 110:10 152:15 190:4,14 191:13,14,20 199:23 206:15	situated 244:19	specifically 39:24 93:24 105:16 106:7,8 152:12,13 154:9 156:2,20 157:5 210:3	statements 39:25 40:3,6,13,16 41:18 42:2 53:21 63:18 65:22 66:19 68:22 71:24 72:2,7 78:4,14 79:24 80:4 82:9,24 83:19 88:6,20 108:24,25 119:13,15, 25 120:5,22 123:17, 21 126:16 129:2,14, 25 133:10,16 139:23 142:8 147:19 148:9, 18 152:15 155:16,21 157:5 158:6,15 166:13,19 170:21 171:13 177:5,7,9,10 179:24 180:11 181:8 185:3 186:7 190:3 191:8 194:5 206:8,14 216:9 242:16	strike 61:15
showing 167:7 241:24	situation 32:15 37:3 49:2 54:19,20 55:18 58:14 69:2 72:11 189:15 211:13 214:25	speculating 23:15 214:12 215:6	structured 8:18 92:25	strive 41:13
shown 126:8 183:13 214:3 226:22 229:8	situations 37:9 38:16 54:22 55:19 109:16 188:11 211:8	speculation 23:16 27:22	structuring 31:6	study 219:8,17
shows 199:2 200:16 225:20	Sixty-two 76:18	spend 119:6	stuff 190:13	subject 8:8,13 15:10 16:14,20,24 17:21 24:11 25:7 26:12,18, 25 28:2 39:2 43:22 57:10 70:12 79:10 94:2 110:3,5 113:10 117:8,15 138:19 139:7 172:9 186:8 187:4 196:13 200:2 203:2,10 204:18,22 208:17 209:7,12 241:10
side 246:20	sizing 29:2	spoke 118:5,10 206:10	states 136:12 140:17 141:2,19 149:17,22 150:18 151:4,14 153:10,23 154:14 155:3 164:8,17 165:3,13,22 175:22 176:5,11,16 178:15, 24 179:13 244:15	subjective 45:19,22 47:5,9,12 64:17 218:24 222:13
sign 77:7	sketchy 97:3	spoken 66:19	stature 217:2	subjectivity 45:14
signature 77:5 183:20,22	skill 103:9,13	spouse 10:9	steps 51:5	subsequent 17:23 22:20 42:20 43:5,23 44:17 56:9 64:10 179:20,23 180:15 181:22 182:2,22 183:6 184:8,11
signed 83:5 186:23	skip 128:23	spreadsheets 117:11	stickler 201:15	subsequently 96:14
significance 35:17, 21 43:10,15,25 48:7	skipping 128:21	stability 218:20	Stinson 5:25 14:25 75:23 76:2 82:2,3 83:18 86:25 87:2,12 91:11,21 109:25 146:16	substance 87:14 95:21,22 193:8
significant 11:12 33:4,13 36:5,6,9 44:2,24 46:18,21 53:2 55:13 62:12 162:5,6 174:9 183:12 200:25 213:23	small 52:15 53:3 55:25 73:13,16 247:8	stack 50:20 52:14 65:5	stipulate 5:13,23 6:4,7	substantially 15:13 208:20 226:2
similar 95:23,25 115:24 116:17,22 118:2 146:7 190:11 194:18 212:9 213:18, 19 215:14,24 217:6 225:4 246:17,23 247:13 249:23	smaller 245:9	stake 59:9 185:15 209:15	stock 226:7,9,14,16, 18 227:3,10,14 228:6 229:15 235:3,7,20 236:15,20,23 237:11 238:8,13 239:6,9 240:9,13,22 244:12	substantiate 98:11, 15
similarly 244:19	social 5:8	stamped 232:4	stop 71:23 120:20 134:2 167:2 170:15	substantive 103:20 166:25
simple 185:24 220:20	sole 25:15 248:12	stand 188:21 205:18	straddles 202:6	subtract 201:18
simply 92:24 160:12 201:8	solely 54:12 55:21 116:5 161:4	standards 102:9	straight 157:15,19	success 31:22 62:12
single 16:4 106:18 149:24 244:4	somebody's 34:11	standpoint 66:11		
sir 73:20 77:5 148:7 167:4 183:16 207:22 232:12 233:19 240:3	sooner 139:14	Stang 5:21 6:17		
sister 99:7 145:22	sophisticated 58:5	starts 163:22		
sit 8:12 97:20 218:6 240:20 241:8,22	source 24:25 25:5,15 26:19,23 53:23 54:13 55:6	state 107:9		
	sources 52:10	state's 5:19		
	space 13:12	stated 91:3 107:25 170:4 172:8		
	speak 74:6 90:20 91:22 95:16,17 100:13,17 193:7	statement 40:5 104:15 105:3 106:4, 12 113:2 136:16 141:10 142:13,21 170:18 174:14,23 176:23 179:8 188:17 200:10 205:18,22 208:22 210:13 215:22 226:23 233:16,20 236:8,12		
	speaking 91:15 251:22			
	special 29:24			
	specializes 10:22			

successes 162:14		testimony 6:23 7:4 74:7,11 85:2,17,23, 25 87:17 105:12 193:8	230:11 231:17 233:17 236:9 237:15, 22 239:2 242:7,15 251:16,18	trade 246:20
successful 92:20	T			trading 226:15
sufficient 103:6	taking 219:24	testing 83:21	timeline 219:18	traditional 40:3
suggest 34:18,21,25 39:8 71:16 91:21 175:8 188:3	talk 15:3 32:7 35:9 39:24 52:8,9 100:18 101:7 179:25 180:5 181:16 207:4	thereabouts 117:3	timely 215:5	train 67:19 124:10
suggested 91:23 186:7 219:13	talked 21:14,16,23 90:15,17 91:5 92:3,8 96:18 104:18 208:24 209:4 212:15 217:23 247:18	thesis 39:20	times 11:18 13:23 46:11 76:9 90:19 91:6 117:17 211:23	transaction 23:24 63:6,15 64:2,5,7,22 92:20 101:11 126:5 134:9
suggestion 142:21	talking 26:11,14,16 31:5,8,9 62:8 70:15 91:23 92:7 107:19 109:21 114:13 167:20 185:18,19 247:15	thing 94:12 146:13 190:10 191:12 194:19 207:8 246:18	timing 172:13 184:11	transactions 7:15 24:2 43:25 124:13 130:11 182:17
suggestions 141:10	tax 243:10	things 14:18 34:20 45:5,13,18,20,23 46:23 48:11,24 49:5, 8 59:20 62:14 63:3 64:19 70:6 72:19 73:12 78:9 88:12 100:20,24 110:6 139:9 156:14 157:7 174:16 180:3 181:6 188:12 191:12 194:5 203:21 210:23 211:9, 12,25 212:2 217:22 229:10 246:23	today 6:19 8:12 9:14 14:19 74:8,11 79:9, 14 107:20 113:17 193:8 205:8 208:25 209:5 215:18 216:9, 17 217:23 218:6 236:20,24 241:22	transcript 84:11,25 85:17 86:7,8,9,10,17, 20 87:3 88:21 89:10 100:10
suggests 128:10 131:7,17 132:5,21 135:25 136:12 137:23 139:16 140:17 141:2,19 146:24 149:17 150:18 151:4,14 153:10,24 155:3 164:8,17 165:3,13 175:22 176:5,11,16 178:15,24 179:13	tax-related 78:4,13	thinking 40:3	today's 81:20	transfer 194:6
suit 15:10 172:9 208:17	taxes 246:6	thought 48:4 67:19 93:10,11 138:23 161:21 196:19 214:22 215:7 217:25 221:9	told 25:3 73:4 91:25 93:8 94:9,18 95:21 98:15,17 99:18,22 104:20 106:7,23 112:2 113:2 116:6 117:6,9,18 144:11 147:25 155:15 156:20 158:19 169:2 171:20 172:3 205:24 209:11,16,19,20 210:9,10,14,18 211:16 212:17,22 214:11 215:21 216:4, 12 227:18 228:25 236:19,22 238:12 240:12 241:17	Traurig 6:6
summarizing 150:2	team 181:15	thoughts 43:19	top 126:6 134:8 155:24 170:16 218:12 231:2 232:17 242:22	treated 110:21
summary 194:2	telephone 9:24 91:8	thousands 96:23	topic 23:19 25:16	treatment 111:6
supplement 41:20	telling 93:25	tied 169:6	total 17:2 91:15 154:20 177:20 196:24 197:4,9,14 199:4,8,13 201:5 225:7,20,21 227:4 228:13 229:14 234:19 235:8,19 238:18 239:10	trends 14:10
supplemented 218:4	term 18:20,23,25 59:6,17,25 66:8 127:18 150:13 229:14	time 12:16,17,25 18:22 21:21 25:21 28:19 39:3,18 44:11, 14 63:13 76:21 83:5 90:12 91:15 92:5,7 95:16,19 102:4 114:7 119:6,16 120:8 123:18 126:17 127:17,23 129:15 130:7 131:8,18 132:6 133:11 134:25 135:19 136:10 142:6 146:8 147:9 159:19 166:14 167:21 171:7 172:3 186:20 189:24 192:4 193:3,15 211:24 213:23,24 219:23 226:8 228:5,9	totality 25:13 169:3, 4,20 170:7	trivial 33:6 36:7 73:13,16
support 105:3 106:4, 12 116:9 161:10,18 210:13 213:9	terms 19:19,23 20:4 21:12 22:7,12 28:23 29:3 36:9 46:21 57:9, 12 58:2,11,21 61:10, 13 62:10 66:5,9 69:21 71:10 72:14 83:8,14 93:25 124:23 137:4 139:13 159:6 187:20 195:21 206:23 239:12 241:25	thousands 96:23	turned 23:7 158:21 229:7	trouble 10:4 119:24
supporting 162:2 242:16	terrible 162:18			true 100:3 107:5 109:8 111:21 113:4 124:25 185:4,10 189:19 202:18 205:25 211:2 215:23 216:14 248:5
supports 116:4	testified 6:9 62:20 82:10 84:15,22 85:21 86:3 98:21 108:22 116:25 168:5 169:18 170:10 181:4 196:16 203:3,12 210:20,22 211:7,25 214:20 235:6 244:24			trust 84:18,22 85:3 99:8,24 101:16 145:13,16,19 146:12 223:9,16 229:25 230:15 231:11,20 235:15 237:11 239:7 244:10
supposed 24:3 110:20 113:22				trustee 99:8,23 145:22
swear 5:11				TSG 5:6
swearing 5:15				turn 10:4 115:16 120:12 126:18 133:22 166:24
sworn 6:8				turned 23:7 158:21 229:7
symbol 235:11,13,15				turning 46:21
synonymous 119:4				

type 40:7 78:11 219:14 types 46:23 110:6 typical 54:22 <hr/> <p style="text-align: center;">U</p> <hr/> unaware 229:12 uncertain 37:15 uncomfortable 160:8 underlying 31:9 underpaid 220:24 understand 6:20,22 7:16 8:15 14:21 15:8, 19,25 20:16 29:9 31:4,15 32:23 38:18, 23,25 39:9 40:12 43:24 46:15 47:22 49:6 50:12 52:22 58:24 63:8,11,17 106:19 111:14 127:15 135:9 143:11 148:8 156:21 160:8 167:14 169:19 170:4 172:8,16 185:8 191:5 197:25 198:17 208:15 250:19 understanding 7:2, 7 8:11 14:14 24:4 27:7,13 31:18 32:3,4, 13 33:20 34:11,23 35:25 36:14,24 37:5 38:13 39:6,22 40:16 41:13,20,21 42:2,6 43:7,14 44:2,9 45:10, 21 46:17 48:4,6,25 49:15 51:10,17,22,23 52:13 53:6 54:4,9 56:6,10,14,24 57:3, 12,15 58:10,12,17,21 59:8 60:9,22 63:20, 22 65:13 66:17 68:21 120:3 143:7 179:22 182:15 184:7 185:11 203:6 204:6 understands 69:20 understood 22:21 112:3 159:18 210:3	unfortunate 189:20 units 12:24 235:3,20 236:16,23 237:11 238:8,13 239:6,9 unpaid 135:13,16,20 137:17 154:20 unusual 54:15 217:2 246:24 update 218:7 upside 10:11 urgency 59:23 60:5 urgent 60:2 utilize 53:23 <hr/> <p style="text-align: center;">V</p> <hr/> validity 5:14 valued 239:13 241:5 varied 162:19 vehicle 28:20 verbal 20:25 verification 54:6 vest 228:9 vesting 228:6 vests 228:7 view 193:17 218:2 219:6 virtual 153:16 vouch 209:19 <hr/> <p style="text-align: center;">W</p> <hr/> W-2 161:5 220:24 222:24 223:5,9,17, 18,22,24 224:9,11, 13,17 229:9,11,25 230:5,10,13 231:3, 10,16,19 243:12,16 244:3,8,10 246:4,5,6 W-2S 161:6,7 235:16 wage 27:24 wages 232:19 242:17	wait 139:3 wanted 50:11 156:6 168:2 171:19 220:6 251:25 Waterhouse 85:6, 10,18 ways 51:9 199:16 week 18:4 82:13 86:2 90:16 wise 158:24 159:3,7 wished 189:8 withdrawn 8:3 37:22 46:3 56:5 64:5 65:9 68:16 74:15 81:24 88:4 96:11 97:12 99:21 102:21 118:8 156:17 157:22 159:25 160:12 177:8 187:11 205:20 206:23 209:3 214:2 219:22 236:21 237:4 248:15 word 8:5,6 29:8 37:17 45:16 128:4 209:19 words 27:23 114:16 work 12:20 13:3 29:4 76:2 205:7 217:13,16 234:15 245:5 worked 20:23 53:18 76:11 working 12:21 21:9, 10 world 19:16 20:6,11 32:22 38:25 73:4 147:8 190:7 207:17 211:16 222:17 world's 11:12 worth 46:10 228:6 239:18 write 119:24 121:11 153:17 177:19 212:2 234:10 writing 69:12,19,24 70:3,6,21 71:3 73:12 74:11 82:6,18 96:2 181:6,7	written 17:22 19:5,9, 13 20:25 21:4 70:11, 19 95:12 107:21,24 175:7 206:6 209:20 213:11 wrong 224:25 wrote 90:2 112:14 166:6 213:6 217:21 236:25 <hr/> <p style="text-align: center;">Y</p> <hr/> year 50:6,9 75:2 90:11 95:5 120:2 121:20 122:18,23 123:4,8 125:4,18 130:20 131:21 132:10,25 133:16 134:16 137:12,17,25 142:17 152:10 154:10,19 170:25 172:3 177:25 180:3,7 182:24 184:16,24 186:2 208:7 235:21 236:17 237:13 238:9, 14,19 244:4 245:4,12 years 7:11,18 18:22 50:10 80:3 85:12 97:11,15 106:16 107:11 108:7 129:7 136:18 138:13 160:15,22,25 162:18, 19,22 182:15 220:18 221:5,10 222:18 225:7 233:22 years' 68:17 <hr/> <p style="text-align: center;">Z</p> <hr/> Ziehl 5:21 6:17 Zoom 90:24 91:2,8 120:18
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EXHIBIT 102

**INTENTIONALLY
OMITTED**

EXHIBIT 103

**INTENTIONALLY
OMITTED**

EXHIBIT 104

**INTENTIONALLY
OMITTED**

EXHIBIT 105

1 WATERHOUSE - 10-19-21
2 IN THE UNITED STATES BANKRUPTCY COURT
3 FOR THE NORTHERN DISTRICT OF TEXAS
4 DALLAS DIVISION

5 -----
6 IN RE:

7 Chapter 11
8 HIGHLAND CAPITAL
9 MANAGEMENT, L.P., CASE NO.
10 19-34054-SGI11

11 Debtor.
12 -----

13 HIGHLAND CAPITAL MANAGEMENT, L.P.,
14

15 Plaintiff,
16

17 vs. Adversary
18 Proceeding No.
19 HIGHLAND CAPITAL MANAGEMENT 21-03000-SGI
20 FUND ADVISORS, L.P.; NEXPOINT
21 ADVISORS, L.P.; HIGHLAND
22 INCOME FUND; NEXPOINT
23 STRATEGIC OPPORTUNITIES FUND;
24 NEXPOINT CAPITAL, INC.; and
25 CLO HOLDCO, LTD.,

Defendants.

16

17 REMOTE VIDEOTAPED DEPOSITION OF

18 FRANK WATERHOUSE

19 October 19, 2021

20

21

22

23

24 Reported by: Susan S. Klinger, RMR-CRR, CSR

25 Job No: 201195

<p>Page 2</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2</p> <p>3</p> <p>4 October 19, 2021</p> <p>5 9:30 a.m.</p> <p>6</p> <p>7</p> <p>8</p> <p>9 Remote Deposition of FRANK WATERHOUSE,</p> <p>10 held before Susan S. Klinger, a Registered</p> <p>11 Merit Reporter and Certified Realtime Reporter</p> <p>12 of the State of Texas.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 3</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A P P E A R A N C E S:</p> <p>3 (All appearances via Zoom.)</p> <p>4 Attorneys for the Reorganized Highland Capital</p> <p>5 Management:</p> <p>6 John Morris, Esq.</p> <p>7 Hayley Winograd, Esq.</p> <p>8 PACHULSKI STANG ZIEHL & JONES</p> <p>9 780 Third Avenue</p> <p>10 New York, New York 10017</p> <p>11 Attorneys for the Witness:</p> <p>12 Debra Dandeneau, Esq.</p> <p>13 Michelle Hartmann, Esq.</p> <p>14 BAKER MCKENZIE</p> <p>15 1900 North Pearl Street</p> <p>16 Dallas, Texas 75201</p> <p>17 Attorneys for NexPoint Advisors, LP and</p> <p>18 Highland Capital Management Fund Advisors,</p> <p>19 L.P.:</p> <p>20 Davor Rukavina, Esq.</p> <p>21 An Nguyen, Esq.</p> <p>22 MUNSCH HARDT KOPF & HARDD</p> <p>23 500 North Akard Street</p> <p>24 Dallas, Texas 75201-6659</p> <p>25</p>
<p>Page 4</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Attorneys for Jim Dondero, Nancy Dondero, HCRA,</p> <p>3 and HCMS:</p> <p>4 Deborah Deitsch-Perez, Esq.</p> <p>5 Michael Aigen, Esq.</p> <p>6 STINSON</p> <p>7 3102 Oak Lawn Avenue</p> <p>8 Dallas, Texas 75219</p> <p>9</p> <p>10 Attorneys for Dugaboy Investment Trust:</p> <p>11 Warren Horn, Esq.</p> <p>12 HELLER, DRAPER & HORN</p> <p>13 650 Poydras Street</p> <p>14 New Orleans, Louisiana 70130</p> <p>15</p> <p>16 Attorneys for Marc Kirschner as the trustee for</p> <p>17 the litigation SunTrust:</p> <p>18 Deborah Newman, Esq.</p> <p>19 QUINN EMANUEL URQUHART & SULLIVAN</p> <p>20 51 Madison Avenue</p> <p>21 New York, New York 10010</p> <p>22</p> <p>23 Also Present:</p> <p>24 Ms. La Asia Canty</p> <p>25</p>	<p>Page 5</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 I N D E X</p> <p>3</p> <p>4 WITNESS PAGE</p> <p>5 FRANK WATERHOUSE</p> <p>6 EXAMINATION BY MR. MORRIS 10</p> <p>7 EXAMINATION BY MR. RUKAVINA 256</p> <p>8 EXAMINATION BY MS. DEITSCH-PEREZ 352</p> <p>9 EXAMINATION BY MR. MORRIS 377</p> <p>10 EXAMINATION BY MR. RUKAVINA 387</p> <p>11 EXAMINATION BY MS. DEITSCH-PEREZ 393</p> <p>12</p> <p>13 E X H I B I T S</p> <p>14 No. Page</p> <p>15 Exhibit 2 NPA et al Amended Complaint 142</p> <p>16 Exhibit 33 6/3/19 Management 91</p> <p>17 Representation</p> <p>18 Exhibit 34 HCMLP Consolidated Financial 94</p> <p>19 Statements</p> <p>20 Exhibit 35 HCMFA Incumbency Certificate 151</p> <p>21 Exhibit 36 Email string re 15(c) 170</p> <p>22 Exhibit 39 HCMLP Operating Results 2/18 226</p> <p>23 Exhibit 40 Summary of Assets and 236</p> <p>24 Liabilities</p> <p>25 Exhibit 41 12/19 Monthly Operating Report 258</p>

<p style="text-align: right;">Page 6</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Exhibit 45 HCMFA Consolidated Financial 135</p> <p>3 Statements</p> <p>4 Exhibit 46 NexPoint 2019 Audited 218</p> <p>5 Financials</p> <p>6</p> <p>7 Exhibit A1 Emails 11/25 328</p> <p>8 Exhibit A2 Emails 12/31 338</p> <p>9 Exhibit A6 Emails 1/12 341</p> <p>10 Exhibit A7 Promissory Notes 297</p> <p>11 Exhibit A9 Email, 8/31 307</p> <p>12 Exhibit A10 Acknowledgment from HCMLP 302</p> <p>13 Exhibit A11 HCMLP Schedule 71A 309</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 PROCEEDINGS</p> <p>3 VIDEOGRAPHER: Good morning,</p> <p>4 Counselors. My name is Scott Hatch. I'm a</p> <p>5 certified legal videographer in association</p> <p>6 with TSG Reporting, Inc.</p> <p>7 Due to the severity of COVID-19 and</p> <p>8 following the practice of social</p> <p>9 distancing, I will not be in the same room</p> <p>10 with the witness. Instead, I will record</p> <p>11 this videotaped deposition remotely. The</p> <p>12 reporter, Susan Klinger, also will not be</p> <p>13 in the same room and will swear the witness</p> <p>14 remotely.</p> <p>15 Do all parties stipulate to the</p> <p>16 validity of this video recording and remote</p> <p>17 swearing, and that it will be admissible in</p> <p>18 the courtroom as if it had been taken</p> <p>19 following Rule 30 of the Federal Rules of</p> <p>20 Civil Procedures and the state's rules</p> <p>21 where this case is pending?</p> <p>22 MR. HORN: Yes.</p> <p>23 MS. DANDENEAU: Yes.</p> <p>24 MR. MORRIS: Yes. John Morris. I</p> <p>25 would just try to do a negative notice</p>
<p style="text-align: right;">Page 8</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 here, as we did yesterday. If anybody has</p> <p>3 a problem with what was just stated, can</p> <p>4 you state your objection now?</p> <p>5 Okay. No response, so everybody</p> <p>6 accepts the stipulation and the instruction</p> <p>7 that was just given.</p> <p>8 VIDEOGRAPHER: Thank you. This is</p> <p>9 the start of media labeled Number 1 of the</p> <p>10 video recorded deposition of Frank</p> <p>11 Waterhouse In Re: Highland Capital</p> <p>12 Management, L.P., in the United States</p> <p>13 Bankruptcy Court for the Northern District</p> <p>14 of Texas, Dallas Division, Case Number</p> <p>15 21-03000-SGI.</p> <p>16 This deposition is being held via</p> <p>17 video conference with participants</p> <p>18 appearing remotely due to COVID-19</p> <p>19 restrictions on Tuesday, October 19th, 2021</p> <p>20 at approximately 9:32 a.m. My name is</p> <p>21 Scott Hatch, legal video specialist with</p> <p>22 TSG Reporting, Inc. headquartered at 228</p> <p>23 East 45th Street, New York, New York. The</p> <p>24 court reporter is Susan Klinger in</p> <p>25 association with TSG Reporting.</p>	<p style="text-align: right;">Page 9</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Counsel, please introduce</p> <p>3 yourselves.</p> <p>4 MR. MORRIS: John Morris, Pachulski</p> <p>5 Stang Ziehl & Jones for the reorganized</p> <p>6 Highland Capital Management, L.P., the</p> <p>7 plaintiff in these actions.</p> <p>8 MS. DANDENEAU: Deborah Dandeneau</p> <p>9 from Baker McKenzie. My partner, Michelle</p> <p>10 Hartmann, is also in the room with me,</p> <p>11 representing Frank Waterhouse individually.</p> <p>12 MS. DEITSCH-PEREZ: Deborah</p> <p>13 Deitsch-Perez from Stinson, LLP,</p> <p>14 representing Jim Dondero, Nancy Dondero,</p> <p>15 HCRA, and HCMS.</p> <p>16 MR. HORN: Warren Horn with Heller,</p> <p>17 Draper & Horn in New Orleans representing</p> <p>18 Dugaboy Investment Trust.</p> <p>19 MR. RUKAVINA: Davor Rukavina with</p> <p>20 Munsch Hardt Kopf & Harr in Dallas</p> <p>21 representing NexPoint Advisors, LP and</p> <p>22 Highland Capital Management Fund Advisors,</p> <p>23 L.P.</p> <p>24 MR. AIGEN: Michael Aigen from</p> <p>25 Stinson, and I represent the same parties</p>

<p style="text-align: right;">Page 10</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 as Deborah Deitsch-Perez.</p> <p>3 MS. NEWMAN: This is Deborah Newman</p> <p>4 from Quinn Emanuel. We represent the</p> <p>5 litigation – Marc Kirschner as the trustee</p> <p>6 for the litigation SunTrust.</p> <p>7 MR. MORRIS: I think that is</p> <p>8 everybody.</p> <p>9 VIDEOGRAPHER: Thank you. Will the</p> <p>10 court reporter please swear in the witness.</p> <p>11 FRANK WATERHOUSE,</p> <p>12 having been first duly sworn, testified as</p> <p>13 follows:</p> <p>14 EXAMINATION</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. Please state your name for the</p> <p>17 record.</p> <p>18 A. My name is Frank Waterhouse.</p> <p>19 Q. Good morning, Mr. Waterhouse. I'm</p> <p>20 John Morris, as you know, from Pachulski Stang</p> <p>21 Ziehl & Jones. You understand that my firm and</p> <p>22 I represent Highland Capital Management, L.P.;</p> <p>23 is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And do you understand that</p>	<p style="text-align: right;">Page 11</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 we're here today for your deposition in your</p> <p>3 individual capacity?</p> <p>4 A. Yes.</p> <p>5 Q. Did you review and – did you</p> <p>6 receive and review a subpoena that Highland</p> <p>7 Capital Management, L.P., served upon you?</p> <p>8 A. Yes.</p> <p>9 Q. You have been deposed before; right?</p> <p>10 A. Yes.</p> <p>11 Q. How many times have you been</p> <p>12 deposed?</p> <p>13 A. About three or four times.</p> <p>14 Q. Okay. And I defended you in one</p> <p>15 deposition; isn't that right?</p> <p>16 A. That is correct.</p> <p>17 Q. So the general ground rules for this</p> <p>18 deposition are largely the same as the</p> <p>19 depositions you have given before. And that is</p> <p>20 I will ask you a series of questions, and it is</p> <p>21 important that you allow me to finish my</p> <p>22 question before you begin your answer; is that</p> <p>23 fair?</p> <p>24 A. Yes.</p> <p>25 Q. And it is important that I allow you</p>
<p style="text-align: right;">Page 12</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to finish your answers before I begin a</p> <p>3 question, but if I fail to do that, will you</p> <p>4 let me know?</p> <p>5 A. I can certainly do that.</p> <p>6 Q. Okay. Do you understand that this</p> <p>7 deposition is being videotaped?</p> <p>8 A. Yes.</p> <p>9 Q. You understand that I may seek to</p> <p>10 use portions of the videotape in a court of</p> <p>11 law?</p> <p>12 A. I did not know that, until you just</p> <p>13 said that.</p> <p>14 Q. Okay. And you are aware of that now</p> <p>15 before the deposition begins substantively; is</p> <p>16 that right?</p> <p>17 A. Yes.</p> <p>18 Q. So unlike I think the other</p> <p>19 depositions that you have given, this one is</p> <p>20 being given remotely. So that presents some</p> <p>21 unique challenges, at least as compared to a</p> <p>22 deposition that is taken in-person.</p> <p>23 From time to time we're going to put</p> <p>24 documents up on the screen, Mr. Waterhouse.</p> <p>25 And it is important that I give you the</p>	<p style="text-align: right;">Page 13</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 opportunity to review any portion of the</p> <p>3 document that you think you need in order to</p> <p>4 fully and completely answer the question.</p> <p>5 So I would ask you to let me know if</p> <p>6 there is a portion of a document that you need</p> <p>7 to see in order to fully and completely answer</p> <p>8 the question. Can you do that for me?</p> <p>9 A. Yes.</p> <p>10 MS. DANDENEAU: Mr. Morris, I would</p> <p>11 just note that we do have hard copies of</p> <p>12 the documents that you sent, so if you can</p> <p>13 just refer to the exhibit number as</p> <p>14 reflected in the documents that you sent,</p> <p>15 Mr. Waterhouse will be able to look at the</p> <p>16 hard copies of those documents.</p> <p>17 MR. MORRIS: I appreciate that,</p> <p>18 and – and I will encourage him to do so.</p> <p>19 There will be other documents that we did</p> <p>20 not send to you that we'll be using today</p> <p>21 though.</p> <p>22 Q. Okay. With that as background, if</p> <p>23 there is anything that I ask you, sir, that you</p> <p>24 don't understand, will you let me know?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 14</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Are you currently employed?</p> <p>3 A. Yes.</p> <p>4 Q. By whom?</p> <p>5 A. The Skyview Group.</p> <p>6 Q. When did you become employed by the</p> <p>7 Skyview Group?</p> <p>8 A. I believe March 1st of 2021.</p> <p>9 Q. Do you have a title at Skyview?</p> <p>10 A. Yes.</p> <p>11 Q. What is your title?</p> <p>12 A. My title is chief financial officer.</p> <p>13 Q. Do you report to anybody in your</p> <p>14 role as CFO?</p> <p>15 A. I don't, no.</p> <p>16 Q. No. Is there a president or a CEO</p> <p>17 of Skyview?</p> <p>18 A. Yes.</p> <p>19 Q. Who is that?</p> <p>20 A. That is Scott Ellington.</p> <p>21 Q. But you don't report to</p> <p>22 Mr. Ellington; is that right?</p> <p>23 A. I don't think so.</p> <p>24 Q. Does Skyview Group –</p> <p>25 MS. DANDENEAU: Excuse me, we –</p>	<p style="text-align: right;">Page 15</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I – I – I might. I just – I</p> <p>3 don't recall.</p> <p>4 Q. Okay. Does Skyview Group provide</p> <p>5 any services to any entity directly or</p> <p>6 indirectly owned or controlled by Jim Dondero?</p> <p>7 A. Yes.</p> <p>8 Q. Can you name – is that pursuant to</p> <p>9 written contracts?</p> <p>10 A. Yes.</p> <p>11 Q. And do you know how many contracts</p> <p>12 exist?</p> <p>13 A. Approximately six or so.</p> <p>14 Q. And is the Skyview Group made up of</p> <p>15 individuals who were formerly employees of</p> <p>16 Highland Capital Management, L.P.?</p> <p>17 A. No.</p> <p>18 Q. Do you know how many – how many –</p> <p>19 how many employees does Skyview have?</p> <p>20 A. Approximately 35.</p> <p>21 Q. And can you tell me how many of</p> <p>22 those 35 are former officers, directors, or</p> <p>23 employees of Highland Capital Management, L.P.?</p> <p>24 A. I don't know the exact number.</p> <p>25 Q. Is it more than 20?</p>
<p style="text-align: right;">Page 16</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. Is it more than 30?</p> <p>4 A. I don't know.</p> <p>5 Q. Can you tell me what portion of</p> <p>6 Skyview – Skyview's revenue is derived from</p> <p>7 entities that are directly or indirectly owned</p> <p>8 or controlled by Jim Dondero?</p> <p>9 MS. DANDENEAU: Mr. Morris, I mean,</p> <p>10 you called Mr. Waterhouse here individually</p> <p>11 for purposes of his testimony in connection</p> <p>12 with the noticed litigation. I have given</p> <p>13 you some leeway to ask him some background</p> <p>14 information about Skyview Group, but this</p> <p>15 is not a substitute for a deposition in</p> <p>16 connection with any other pending disputes</p> <p>17 that exist. And – and we agreed to accept</p> <p>18 the subpoena on the basis of he – this is</p> <p>19 testimony that he is giving in connection</p> <p>20 with the noticed litigation.</p> <p>21 I really think that you are now</p> <p>22 going a little bit far afield from the</p> <p>23 purpose of this deposition.</p> <p>24 MR. MORRIS: Okay. It is – I'm not</p> <p>25 intending to use these – the answers to</p>	<p style="text-align: right;">Page 17</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 these questions for any purpose other than</p> <p>3 this litigation. I think you understand</p> <p>4 fully why I'm asking the questions, and I</p> <p>5 just have a couple more, if you will bear</p> <p>6 with me.</p> <p>7 MS. DANDENEAU: Okay.</p> <p>8 MS. DEITSCH-PEREZ: Can we have an</p> <p>9 agreement that an objection by one is an</p> <p>10 objection for any other party here?</p> <p>11 MR. MORRIS: Sure. I would – I</p> <p>12 would encourage that, sure.</p> <p>13 MS. DEITSCH-PEREZ: Thank you.</p> <p>14 MR. MORRIS: It can't be sustained</p> <p>15 or overruled more than one time, so...</p> <p>16 Q. Mr. Waterhouse, can you answer my</p> <p>17 question, please.</p> <p>18 MS. DANDENEAU: Do you want to</p> <p>19 repeat it, Mr. Morris, for his benefit?</p> <p>20 MR. MORRIS: Sure.</p> <p>21 Q. Can you – can you tell me the</p> <p>22 approximate portion of Skyview's revenue that</p> <p>23 is derived from entities that are directly or</p> <p>24 indirectly owned or controlled by Mr. Dondero?</p> <p>25 A. I don't know the exact number.</p>

<p style="text-align: right;">Page 18</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Is it more than 75 percent?</p> <p>3 A. Yes.</p> <p>4 Q. Is it more than 90 percent?</p> <p>5 A. I don't know.</p> <p>6 Q. Okay. Can I refer to Highland</p> <p>7 Capital Management, L.P., as Highland?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And you previously</p> <p>10 served as Highland's CFO; correct?</p> <p>11 A. Yes.</p> <p>12 Q. When did you join Highland?</p> <p>13 A. I don't recall the exact date.</p> <p>14 Q. Can you tell me what year?</p> <p>15 A. 2006.</p> <p>16 Q. When did you -- in what year did you</p> <p>17 become Highland's CFO?</p> <p>18 A. I don't recall the exact date.</p> <p>19 Q. I'm not asking you for the exact</p> <p>20 date. I'm asking you if you recall the year in</p> <p>21 which you were appointed CFO.</p> <p>22 A. I don't recall the exact year.</p> <p>23 Q. Can you tell me which years it is</p> <p>24 possible that you were appointed to CFO of</p> <p>25 Highland?</p>	<p style="text-align: right;">Page 19</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. 2011 or 2012.</p> <p>3 Q. Did you serve as Highland's CFO on a</p> <p>4 continuous basis from in or around 2011 or 2012</p> <p>5 until early 2021?</p> <p>6 A. Yes.</p> <p>7 Q. During that entire time you reported</p> <p>8 directly to Jim Dondero; correct?</p> <p>9 A. I -- I don't know.</p> <p>10 Q. Is there anybody else you reported</p> <p>11 to -- withdrawn.</p> <p>12 Did you report to Mr. Dondero for</p> <p>13 some portion of the time that you served as</p> <p>14 CFO?</p> <p>15 A. Yes.</p> <p>16 Q. Is there a portion of time that you</p> <p>17 don't recall who you reported to?</p> <p>18 A. Yes.</p> <p>19 Q. What portion of time do you have in</p> <p>20 your mind when you can't recall who you</p> <p>21 reported to?</p> <p>22 A. From the 2011 to -- for</p> <p>23 approximately a year or two.</p> <p>24 Q. Okay. So is it fair to say that you</p> <p>25 reported to Mr. Dondero in your capacity as CFO</p>
<p style="text-align: right;">Page 20</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 from at least 2014 until the time you left</p> <p>3 Highland?</p> <p>4 MS. DANDENEAU: Objection to form.</p> <p>5 A. I don't want to speculate the exact</p> <p>6 or what year that changed or -- so I would like</p> <p>7 to stick with my testimony.</p> <p>8 Q. Can you recall when you began</p> <p>9 reporting to Mr. Dondero?</p> <p>10 A. I don't recall.</p> <p>11 Q. Can you -- can you give me an</p> <p>12 estimate of what year you think you might have</p> <p>13 began reporting to Mr. Dondero?</p> <p>14 A. I will go back to my prior</p> <p>15 testimony.</p> <p>16 Q. Okay. There is no -- you have no</p> <p>17 ability to tell me when you began reporting to</p> <p>18 Mr. Dondero.</p> <p>19 Do I have that right?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. I don't recall.</p> <p>22 Q. Okay. Do you recall who you might</p> <p>23 have reported to before you began reporting to</p> <p>24 Mr. Dondero?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Who might you have reported to in</p> <p>3 your capacity as CFO before you started</p> <p>4 reporting to Mr. Dondero?</p> <p>5 A. That would have been Patrick Boyce.</p> <p>6 Q. Are you aware that Highland filed</p> <p>7 for bankruptcy on October 19th, 2019?</p> <p>8 A. Yes.</p> <p>9 Q. And we refer to that as the petition</p> <p>10 date?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Do you hold any professional</p> <p>13 licenses, sir?</p> <p>14 A. Yes.</p> <p>15 Q. Can you tell me what professional</p> <p>16 licenses you hold?</p> <p>17 A. I'm a certified public accountant.</p> <p>18 Q. Okay. Anything else?</p> <p>19 A. No.</p> <p>20 Q. Do you have any other professional</p> <p>21 licenses or certificates?</p> <p>22 A. When you say "professional license,"</p> <p>23 that is not education?</p> <p>24 Q. Tell me -- sure. Anything other</p> <p>25 than a driver's license.</p>

<p style="text-align: right;">Page 22</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Do you have any other license or</p> <p>3 certificate or certification?</p> <p>4 A. Are you asking, like, where I went</p> <p>5 to school and the –</p> <p>6 Q. I am not. I am not. I didn't say</p> <p>7 education. I didn't ask about degrees.</p> <p>8 Do you know what a license is?</p> <p>9 A. Well, yeah, I mean, a license is</p> <p>10 something you get after you receive a certain</p> <p>11 level of proficiency.</p> <p>12 Q. Do you have any licenses or</p> <p>13 certifications other than your CPA?</p> <p>14 MS. DANDENEAU: Objection, form.</p> <p>15 I assume you mean professional</p> <p>16 licenses, Mr. Morris; correct?</p> <p>17 Q. Can you answer my question, sir?</p> <p>18 A. Mr. Morris, I'm thinking. I</p> <p>19 don't – I don't think I have any others.</p> <p>20 Q. Are you familiar with an entity</p> <p>21 called Highland Capital Management Fund</p> <p>22 Advisors?</p> <p>23 A. Yes.</p> <p>24 Q. Were you ever – can we refer to</p> <p>25 that entity as HCMFA?</p>	<p style="text-align: right;">Page 23</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. Were you ever employed by HCMFA?</p> <p>4 A. Not that I recall.</p> <p>5 Q. Were you ever – did you ever hold</p> <p>6 the title of an officer or director of HCMFA?</p> <p>7 A. Yes.</p> <p>8 Q. What title did you hold?</p> <p>9 A. Treasurer.</p> <p>10 Q. When did you become the treasurer of</p> <p>11 HCMFA?</p> <p>12 A. I don't recall.</p> <p>13 Q. Can you tell me the year?</p> <p>14 A. I don't – I don't know the year.</p> <p>15 Q. Can you approximate the year in</p> <p>16 which you became the treasurer of HCMFA?</p> <p>17 A. I don't know.</p> <p>18 Q. Can you tell me if it was before or</p> <p>19 after 2016?</p> <p>20 A. I don't recall.</p> <p>21 Q. Are you still the – do you know if</p> <p>22 you're still the treasurer of HCMFA today?</p> <p>23 A. Today, I am the acting treasurer for</p> <p>24 HCMFA.</p> <p>25 Q. Is there a distinction between</p>
<p style="text-align: right;">Page 24</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 treasurer and acting treasurer?</p> <p>3 A. I said "acting treasurer" as I am an</p> <p>4 employee of Skyview, as you previously</p> <p>5 stated – or asked.</p> <p>6 Q. But you are the treasurer of HCMFA</p> <p>7 today; correct?</p> <p>8 A. I am – I am the acting treasurer</p> <p>9 for HCMFA.</p> <p>10 Q. How did you become the treasurer of</p> <p>11 HCMFA?</p> <p>12 A. Are you asking how I became the</p> <p>13 treasurer of HCMFA today?</p> <p>14 Q. How did you become appointed to</p> <p>15 serve as the treasurer of HCMFA?</p> <p>16 A. Well, in – in – in what time</p> <p>17 capacity?</p> <p>18 Q. The first time that you were</p> <p>19 appointed.</p> <p>20 A. First time. I believe I was asked</p> <p>21 to serve as treasurer for HCMFA the first time.</p> <p>22 Q. By who? Who asked you to do that?</p> <p>23 A. I don't recall.</p> <p>24 Q. Is there anything that would refresh</p> <p>25 your recollection as to who appointed you as</p>	<p style="text-align: right;">Page 25</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the treasurer of CF- – HCMFA for the first</p> <p>3 time?</p> <p>4 A. I don't – I mean, there would be</p> <p>5 some documents, some legal documents. I don't</p> <p>6 know where those are.</p> <p>7 Q. How many times have you been</p> <p>8 appointed the treasurer of HCMFA?</p> <p>9 A. I don't know.</p> <p>10 Q. Was it more than once?</p> <p>11 A. I don't know.</p> <p>12 Q. Can you tell me any period of time</p> <p>13 since 2016 that you did not hold the title of</p> <p>14 treasurer of HCMFA?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. I don't recall.</p> <p>17 Q. What are your duties and</p> <p>18 responsibilities as the treasurer of HCMFA?</p> <p>19 A. My duties are to do the best job</p> <p>20 that I can as the – as an accountant and</p> <p>21 finance guy.</p> <p>22 Q. What specific duties and</p> <p>23 responsibilities do you have as the treasurer</p> <p>24 of HCMFA?</p> <p>25 A. My duties are to do the best job</p>

<p style="text-align: right;">Page 26</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 that I can as the accounting and finance person</p> <p>3 for HCMFA.</p> <p>4 Q. As the accounting and finance person</p> <p>5 for HCMFA, do you have any particular areas of</p> <p>6 responsibility?</p> <p>7 A. Yeah, it is to manage the accounting</p> <p>8 and finance function for HCMFA.</p> <p>9 Q. Would that include -- do you have</p> <p>10 responsibility for overseeing HCMFA's annual</p> <p>11 audit?</p> <p>12 A. Can I please elaborate on my prior</p> <p>13 question?</p> <p>14 Q. Of course. You -- you are giving</p> <p>15 answers. I'm asking questions.</p> <p>16 A. Okay. Yes, so the -- it -- like I</p> <p>17 said, it is to manage the accounting finance</p> <p>18 aspect, but I am, as we discussed, the</p> <p>19 treasurer. That is -- being treasurer is what</p> <p>20 gives me that -- that management function.</p> <p>21 Q. Does anybody report to you in your</p> <p>22 capacity as treasurer of HCMFA?</p> <p>23 A. I don't believe so.</p> <p>24 Q. Does HCMFA have a chief financial</p> <p>25 officer?</p>	<p style="text-align: right;">Page 27</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't -- I don't know.</p> <p>3 Q. You don't know?</p> <p>4 You're the treasurer of HCMFA but</p> <p>5 you don't know if HCMFA has a chief financial</p> <p>6 officer.</p> <p>7 Do I have that right?</p> <p>8 A. That's right.</p> <p>9 Q. Okay. Have you heard of a company</p> <p>10 called NexPoint Advisors?</p> <p>11 A. Yes.</p> <p>12 Q. We will refer to that as NexPoint.</p> <p>13 Okay?</p> <p>14 A. Okay.</p> <p>15 Q. Were you ever employed by NexPoint?</p> <p>16 A. I don't recall.</p> <p>17 Q. Did you ever hold any title with</p> <p>18 respect to the entity known as NexPoint?</p> <p>19 A. Yes.</p> <p>20 Q. What titles have you held in</p> <p>21 relation to NexPoint?</p> <p>22 A. Treasurer. I think it was only</p> <p>23 treasurer.</p> <p>24 Q. Can you tell me the approximate year</p> <p>25 you became the treasurer of NexPoint?</p>
<p style="text-align: right;">Page 28</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't know.</p> <p>3 Q. Are you still the treasurer of</p> <p>4 NexPoint today?</p> <p>5 A. I am the acting treasurer for</p> <p>6 NexPoint.</p> <p>7 Q. When did your title change from</p> <p>8 treasurer to acting treasurer?</p> <p>9 A. I don't know.</p> <p>10 Q. Did your duties and responsibilities</p> <p>11 change at all when your title was changed from</p> <p>12 treasurer to acting treasurer?</p> <p>13 A. I don't -- I don't believe so.</p> <p>14 Q. Why did --</p> <p>15 A. I still manage the finance and</p> <p>16 accounting function for NexPoint.</p> <p>17 Q. Why did your title change from</p> <p>18 treasurer to acting treasurer?</p> <p>19 A. I don't -- I'm using the term</p> <p>20 "acting treasurer" as I'm a Skyview employee.</p> <p>21 I don't -- I don't know -- again, I am a -- as</p> <p>22 I am the Skyview employee.</p> <p>23 Q. Okay.</p> <p>24 A. And we -- we provide officer</p> <p>25 services.</p>	<p style="text-align: right;">Page 29</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And you serve as an officer of</p> <p>3 HCMFA; correct?</p> <p>4 A. I think we went over that with my</p> <p>5 testimony. Yes, I'm the acting treasurer for</p> <p>6 HCMFA.</p> <p>7 Q. And you are an officer of NexPoint;</p> <p>8 correct?</p> <p>9 A. I think -- I am the acting treasurer</p> <p>10 for NexPoint Advisors.</p> <p>11 Q. And -- and who appointed you acting</p> <p>12 treasurer of NexPoint Advisors?</p> <p>13 A. I don't recall specifically.</p> <p>14 Q. Do you have any recollection of who</p> <p>15 might have appointed you the treasurer of</p> <p>16 NexPoint?</p> <p>17 A. I mean, it -- it -- I don't recall</p> <p>18 exactly who it was.</p> <p>19 Q. Who were the possibilities?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 Q. You can answer.</p> <p>23 A. Someone in the legal group for</p> <p>24 NexPoint. The other officers as well.</p> <p>25 Q. Have you heard of a company called</p>

<p style="text-align: right;">Page 30</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Highland Capital Management Services, Inc.?</p> <p>3 A. Yes.</p> <p>4 Q. We will refer to that as HCMS.</p> <p>5 Okay?</p> <p>6 A. HCMS. Okay.</p> <p>7 Q. Were you ever employed by HCMS?</p> <p>8 A. No.</p> <p>9 Q. Have you ever held any titles in</p> <p>10 relation to HCMF – I apologize – HCMS?</p> <p>11 A. Yes.</p> <p>12 Q. What titles have you held in</p> <p>13 relation to HCMS?</p> <p>14 A. Treasurer and acting treasurer.</p> <p>15 Q. When did you first become treasurer</p> <p>16 or acting treasurer of HCMS?</p> <p>17 A. I don't recall the exact dates.</p> <p>18 Q. Can you recall – can you</p> <p>19 approximate the year that you became the</p> <p>20 treasurer of HCMS?</p> <p>21 A. I don't – I don't know.</p> <p>22 Q. Are you still the treasurer of HCMS</p> <p>23 today?</p> <p>24 A. I am the acting treasurer for HCMS.</p> <p>25 Q. And are your duties and</p>	<p style="text-align: right;">Page 31</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 responsibilities as the acting treasurer for</p> <p>3 HCMS and the acting treasurer for NexPoint the</p> <p>4 same as your duties and responsibilities in</p> <p>5 your role as the acting treasurer of HCMFA?</p> <p>6 A. More or less.</p> <p>7 Q. Have you ever heard of a company</p> <p>8 called HCRE Partners, LLC?</p> <p>9 A. Yes.</p> <p>10 Q. And do you understand that that</p> <p>11 entity is now known today as NexPoint Real</p> <p>12 Estate Partners?</p> <p>13 A. I did not know that.</p> <p>14 Q. All right. Can we refer to HCRE</p> <p>15 Partners as HCRE?</p> <p>16 MS. DANDENEAU: Objection to form.</p> <p>17 Did you mean NexPoint Real Estate</p> <p>18 Partners, Mr. Morris?</p> <p>19 MR. MORRIS: No.</p> <p>20 MS. DANDENEAU: Oh.</p> <p>21 MR. MORRIS: He said he wasn't</p> <p>22 familiar that it was succeeded by that</p> <p>23 entity. So –</p> <p>24 MS. DANDENEAU: Okay.</p> <p>25 MR. MORRIS: – let's go with what</p>
<p style="text-align: right;">Page 32</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the witness knows.</p> <p>3 Q. You're familiar with an entity</p> <p>4 called HCRE Partners, LLC; correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So that is the entity that we</p> <p>7 will refer to as HCRE. If you're aware of any</p> <p>8 successor, that is great. If not, let's just</p> <p>9 define it as such.</p> <p>10 Have you ever been employed by HCRE</p> <p>11 or any entity that you know to have succeeded</p> <p>12 HCRE?</p> <p>13 A. No.</p> <p>14 Q. Did you ever serve as an officer or</p> <p>15 director of HCRE or any successor?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Okay. Can we refer to NexPoint and</p> <p>18 HCMFA as the advisors?</p> <p>19 A. Yes.</p> <p>20 Q. In general, the advisors provided</p> <p>21 investment advisory services to certain retail</p> <p>22 funds; correct?</p> <p>23 A. Yes.</p> <p>24 Q. And we will refer to the retail</p> <p>25 funds that are served by the advisors</p>	<p style="text-align: right;">Page 33</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 collectively as the retail funds; is that okay?</p> <p>3 A. Okay.</p> <p>4 Q. Each of the retail funds is governed</p> <p>5 by a board; correct?</p> <p>6 A. Yes.</p> <p>7 Q. And do you know the people who serve</p> <p>8 on the boards of the retail funds?</p> <p>9 MS. DANDENEAU: Objection to form.</p> <p>10 A. I don't know all of them.</p> <p>11 Q. Do you know whether the same people</p> <p>12 serve on the board of each of the retail funds</p> <p>13 as we've defined that term?</p> <p>14 A. Which – so when you say "retail</p> <p>15 funds" – again, I want to be – what retail</p> <p>16 funds are you referring to, because there are</p> <p>17 – there are several distinctions?</p> <p>18 What retail funds are you using when</p> <p>19 you refer to them?</p> <p>20 Q. That is why – that is why I tried</p> <p>21 to define the terms. So let me do it again.</p> <p>22 Retail funds for the purposes of</p> <p>23 this deposition means any retail fund to which</p> <p>24 either of the advisors provides advisory</p> <p>25 services. Okay?</p>

<p style="text-align: right;">Page 34</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Okay.</p> <p>3 Q. Okay. So do you know whether the</p> <p>4 same people serve on the board of each of the</p> <p>5 retail funds?</p> <p>6 A. I don't know.</p> <p>7 Q. Were you ever employed by any of the</p> <p>8 retail funds?</p> <p>9 A. No.</p> <p>10 Q. No?</p> <p>11 A. No.</p> <p>12 Q. Okay. Do you have any title with</p> <p>13 respect to any of the retail funds?</p> <p>14 A. Yes.</p> <p>15 Q. What titles do you hold --</p> <p>16 withdrawn.</p> <p>17 Do you have the same titles with</p> <p>18 respect to all of the retail funds or do</p> <p>19 they -- or just something else?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 Q. Withdrawn.</p> <p>22 Do you have the same title with</p> <p>23 respect to each of the retail funds?</p> <p>24 A. No.</p> <p>25 Q. Tell me which title you have with</p>	<p style="text-align: right;">Page 35</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 respect to each retail fund.</p> <p>3 Actually, let's do it a different</p> <p>4 way. I withdraw the question.</p> <p>5 Can you give me one title you have</p> <p>6 in relation to any retail fund?</p> <p>7 A. Yes.</p> <p>8 Q. What title -- what title can you</p> <p>9 give me?</p> <p>10 A. Principal executive officer.</p> <p>11 Q. Do you serve as principal executive</p> <p>12 officer for each of the retail funds?</p> <p>13 A. No.</p> <p>14 Q. Can you identify for me the retail</p> <p>15 funds in which you serve as the principal</p> <p>16 executive officer?</p> <p>17 A. Yes. Highland Funds 1, Highland</p> <p>18 Funds 2, Highland Income Fund, Highland Global</p> <p>19 Allocation Fund.</p> <p>20 Q. I'm sorry, you said "Global</p> <p>21 Allocation Fund"?</p> <p>22 A. Yes.</p> <p>23 VIDEOGRAPHER: Excuse me,</p> <p>24 Mr. Morris. This is the videographer. I'm</p> <p>25 concerned about the lighting in the</p>
<p style="text-align: right;">Page 36</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 witness' camera.</p> <p>3 Do you want to go off the record and</p> <p>4 make some adjustments?</p> <p>5 MR. MORRIS: Sure, but just for this</p> <p>6 purpose. I don't want to take a break. We</p> <p>7 just started.</p> <p>8 MS. DANDENEAU: Yeah, that is fine.</p> <p>9 That is fine. We're going to put you on</p> <p>10 mute.</p> <p>11 MR. MORRIS: All right.</p> <p>12 MS. DANDENEAU: I'm going to try to</p> <p>13 open up some of the shades.</p> <p>14 VIDEOGRAPHER: We're going off the</p> <p>15 record at 10:08 a.m.</p> <p>16 (Recess taken 10:08 a.m. to 10:11 a.m.)</p> <p>17 VIDEOGRAPHER: We are back on the</p> <p>18 record at 10:11 a.m.</p> <p>19 Q. Mr. Waterhouse, when did you become</p> <p>20 the principal executive officer of the four</p> <p>21 retail funds that you just identified?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you recall the approximate year</p> <p>24 that you became the principal executive officer</p> <p>25 of the four funds?</p>	<p style="text-align: right;">Page 37</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. 2021.</p> <p>3 Q. Did you ever hold any title with</p> <p>4 respect to any of the four funds you have just</p> <p>5 identified other than principal executive</p> <p>6 officer?</p> <p>7 A. I don't recall.</p> <p>8 Q. Is it possible that you held a</p> <p>9 position or a title with the four funds you</p> <p>10 just identified prior to 2021?</p> <p>11 A. Yes.</p> <p>12 Q. But you don't recall if you did or</p> <p>13 not; do I have that right?</p> <p>14 A. No. You -- I thought you asked, did</p> <p>15 I hold other titles.</p> <p>16 Q. Did you hold any title at the four</p> <p>17 retail funds for which you now serve as</p> <p>18 principal executive officer at any time prior</p> <p>19 to 2021?</p> <p>20 A. Yes.</p> <p>21 Q. What titles did you hold?</p> <p>22 A. I don't recall all the titles.</p> <p>23 Q. Do you recall any of the titles?</p> <p>24 A. Yes.</p> <p>25 Q. What titles do you recall holding at</p>

<p style="text-align: right;">Page 38</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 those four retail funds before 2021?</p> <p>3 A. Principal executive officer.</p> <p>4 Q. Were you the principal executive</p> <p>5 officer of the four retail funds that you have</p> <p>6 identified?</p> <p>7 A. Sorry, could you repeat the</p> <p>8 question?</p> <p>9 Q. Were you the principal executive</p> <p>10 officer for each of the four retail funds that</p> <p>11 you have identified?</p> <p>12 A. Yes.</p> <p>13 Q. When did you become the principal</p> <p>14 executive – withdrawn.</p> <p>15 Can you give me the approximate year</p> <p>16 that you became the principal executive officer</p> <p>17 for each of the four retail funds you've</p> <p>18 identified?</p> <p>19 A. I don't recall.</p> <p>20 Q. What are your duties and</p> <p>21 responsibilities as the principal executive</p> <p>22 officer of these four retail funds?</p> <p>23 A. It is to manage the finance and</p> <p>24 accounting positions.</p> <p>25 Q. So at the same time you serve as the</p>	<p style="text-align: right;">Page 39</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 treasurer of the advisors, you also serve as</p> <p>3 the principal executive officer of these four</p> <p>4 retail funds; correct?</p> <p>5 A. Yes.</p> <p>6 Q. Did you ever hold any title with</p> <p>7 respect to any other retail fund?</p> <p>8 A. Not that I recall.</p> <p>9 Q. During the period that you served as</p> <p>10 Highland's CFO, from time to time Highland</p> <p>11 loaned money to certain of its officers and</p> <p>12 employees; correct?</p> <p>13 A. Yes.</p> <p>14 Q. During the period that you served as</p> <p>15 Highland's CFO, from time to time Highland</p> <p>16 loaned money to certain –</p> <p>17 A. Let me – let me retract that,</p> <p>18 sorry, that – you asked during the time I was</p> <p>19 CFO, Highland loaned moneys to employees. I</p> <p>20 don't – I don't recall that during my tenure</p> <p>21 of CFO.</p> <p>22 Q. You have no recollection during the</p> <p>23 time that you were the CFO of Highland of</p> <p>24 Highland ever loaning any money to any officer</p> <p>25 or director of Highland?</p>
<p style="text-align: right;">Page 40</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall during my tenure of</p> <p>3 Highland or my – as CFO of Highland – yeah,</p> <p>4 if there are any loans as CFO of Highland.</p> <p>5 Q. I'm just talking about officers and</p> <p>6 employees right now. You have no recollection</p> <p>7 of Highland ever making a loan to any of its</p> <p>8 officers or employees during the time that you</p> <p>9 served as CFO. Do I have that right?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. So I thought you were saying</p> <p>12 officers and employees as CFO, right, so there</p> <p>13 were – I mean, okay, yes.</p> <p>14 Q. I would ask you to listen carefully</p> <p>15 to my question. If I – if I'm not clear, let</p> <p>16 me know, but I'm really trying to be as clear</p> <p>17 as I can.</p> <p>18 A. I'm listening as carefully as I can,</p> <p>19 and you are asking very specific questions in a</p> <p>20 timeline. And I'm trying to answer your</p> <p>21 questions as specifically as I can, and I</p> <p>22 apologize if – if I'm going back. I am – you</p> <p>23 are asking very specific questions. Thank you.</p> <p>24 Q. During the period that you served as</p> <p>25 Highland's CFO, from time to time Highland</p>	<p style="text-align: right;">Page 41</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 loaned money to certain corporate affiliates;</p> <p>3 correct?</p> <p>4 MS. DANDENEAU: Objection to form.</p> <p>5 A. What are corporate affiliates?</p> <p>6 Q. How about the ones that are in</p> <p>7 Highland's audited financial statements under</p> <p>8 the section entitled Loans to Affiliates. Why</p> <p>9 don't we start with those. Do you have any</p> <p>10 understanding of what the phrase "affiliates"</p> <p>11 means?</p> <p>12 MS. DANDENEAU: Objection to form.</p> <p>13 A. I understand what affiliates are,</p> <p>14 yet affiliates can have different meanings in</p> <p>15 different contexts, so...</p> <p>16 Q. Why don't you – why don't you tell</p> <p>17 me what your understanding of the term</p> <p>18 "affiliate" is in relation to Highland Capital</p> <p>19 Management, L.P.</p> <p>20 A. Is that a – it depends on the</p> <p>21 context.</p> <p>22 Q. How about the context of making</p> <p>23 loans?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I didn't make the determination of</p>

<p style="text-align: right;">Page 42</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 who an affiliate was or is at the time those –</p> <p>3 I didn't – that wasn't my job to make a</p> <p>4 determination of who an affiliate is.</p> <p>5 Q. All right. So as the CFO of</p> <p>6 Highland, do you have any ability right now to</p> <p>7 tell me which companies that were directly or</p> <p>8 indirectly owned and/or controlled by</p> <p>9 Mr. Dondero in whole or in part received loans</p> <p>10 from Highland Capital Management, L.P.?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 MS. DEITSCH-PEREZ: Objection, form.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Identify every entity that</p> <p>15 you can think of that was directly or</p> <p>16 indirectly owned and/or controlled by</p> <p>17 Mr. Dondero in whole or in part that received a</p> <p>18 loan from Highland Capital Management, L.P.</p> <p>19 MR. RUKAVINA: Objection, legal</p> <p>20 conclusion.</p> <p>21 A. NexPoint Advisors, Highland Capital</p> <p>22 Management Fund Advisors, HCM Services,</p> <p>23 Dugaboy. Sorry, I don't think – Dugaboy</p> <p>24 doesn't fit that definition. You said owned</p> <p>25 and controlled. I don't think that that</p>	<p style="text-align: right;">Page 43</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 definition –</p> <p>3 Q. I said owned and/or controlled.</p> <p>4 A. I don't – again, I'm not – I'm not</p> <p>5 the legal expert. I don't think it controls –</p> <p>6 he controls Dugaboy, so again, I'm not the</p> <p>7 legal person.</p> <p>8 Q. I'm not asking you for a legal</p> <p>9 conclusion, sir. I'm asking you for your</p> <p>10 knowledge, okay, as the CFO – the former CFO</p> <p>11 of Highland Capital Management, other than</p> <p>12 NexPoint, HCMFA, and HCMF – HCMS, can you</p> <p>13 think of any other entities that were owned</p> <p>14 and/or controlled directly or indirectly in</p> <p>15 whole or in part by Jim Dondero who received a</p> <p>16 loan from Highland Capital Management, L.P.?</p> <p>17 MS. DANDENEAU: Objection to form.</p> <p>18 A. HCRE.</p> <p>19 Q. Any others?</p> <p>20 A. That is – that is all I can think</p> <p>21 of.</p> <p>22 Q. And you're aware that from time to</p> <p>23 time while you were the CFO, Highland loaned</p> <p>24 money to Jim Dondero; correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 44</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Can we refer to the four</p> <p>3 entities that you just named and Mr. Dondero as</p> <p>4 the affiliates?</p> <p>5 A. So that would be Jim Dondero,</p> <p>6 NexPoint Advisors, Highland Capital Management</p> <p>7 Fund Advisors, and HCRE.</p> <p>8 Q. And HCMS?</p> <p>9 A. And HCMS, okay.</p> <p>10 Q. And can we refer to the loans that</p> <p>11 were given to each of those affiliates as the</p> <p>12 affiliate loans?</p> <p>13 A. Yes.</p> <p>14 Q. And is it fair to say that each of</p> <p>15 the affiliates were the borrowers under the</p> <p>16 affiliate loans as we're defining the term?</p> <p>17 MR. RUKAVINA: Objection, legal</p> <p>18 conclusion.</p> <p>19 A. The borrowers are whoever were on</p> <p>20 the notes. I don't – I don't know. I'm not</p> <p>21 the legal person.</p> <p>22 Q. But you –</p> <p>23 A. I don't know.</p> <p>24 Q. You do know, as Highland's former</p> <p>25 CFO, that each of the affiliates that you have</p>	<p style="text-align: right;">Page 45</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 identified tendered notes to Highland; correct?</p> <p>3 MR. RUKAVINA: Hey, John, will you</p> <p>4 just give me a running objection to legal</p> <p>5 conclusion to HCM –</p> <p>6 MR. MORRIS: No. No, if you want to</p> <p>7 object –</p> <p>8 MR. RUKAVINA: I will object every</p> <p>9 time. Object to legal conclusion.</p> <p>10 MR. MORRIS: That is fine.</p> <p>11 A. Sorry, can you repeat the question?</p> <p>12 Q. Are you aware that each of the –</p> <p>13 that each of the affiliates, as we have defined</p> <p>14 the term, gave to Highland a promissory note in</p> <p>15 exchange for the loans?</p> <p>16 MR. RUKAVINA: Objection to the</p> <p>17 extent that calls for a legal conclusion.</p> <p>18 A. I don't.</p> <p>19 Q. No, you don't know that?</p> <p>20 A. No, they didn't – you said they</p> <p>21 exchanged a promissory note for a loan. I</p> <p>22 don't – I don't understand that question, so I</p> <p>23 said no.</p> <p>24 Q. At the time of the bankruptcy</p> <p>25 filing, did Highland have in its possession</p>

<p style="text-align: right;">Page 46</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 promissory notes that were signed by each of</p> <p>3 the affiliates?</p> <p>4 A. Yes.</p> <p>5 Q. To the best of your knowledge,</p> <p>6 during the time that you served as Highland's</p> <p>7 CFO, did Highland disclose to its outside</p> <p>8 auditors all of the loans that were made to</p> <p>9 affiliates?</p> <p>10 MR. RUKAVINA: Objection, that calls</p> <p>11 for a legal conclusion.</p> <p>12 MS. DEITSCH-PEREZ: I also couldn't</p> <p>13 hear you, John, because there was some</p> <p>14 garbling on -- on the -- on the call.</p> <p>15 MR. MORRIS: Folks, I've got to tell</p> <p>16 you this is not going well, and I'm</p> <p>17 reserving my right --</p> <p>18 MS. DANDENEAU: John, it was just</p> <p>19 the end of that question. It was just the</p> <p>20 end of that question. I couldn't hear it</p> <p>21 either. Sorry, if you could repeat it,</p> <p>22 please.</p> <p>23 MR. MORRIS: That is less than an</p> <p>24 hour into this, but folks are trying to run</p> <p>25 out the clock, and so I'm just going to</p>	<p style="text-align: right;">Page 47</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 state that now.</p> <p>3 MS. DANDENEAU: You know, and,</p> <p>4 Mr. Morris, I really object to that. I</p> <p>5 mean --</p> <p>6 MR. MORRIS: Okay.</p> <p>7 MS. DANDENEAU: -- Mr. Waterhouse</p> <p>8 just told you he's trying to listen to your</p> <p>9 questions and answer them carefully, and</p> <p>10 you have no basis for saying that.</p> <p>11 MR. MORRIS: Okay.</p> <p>12 MS. DANDENEAU: This does not --</p> <p>13 this is not an experienced witness, so he's</p> <p>14 trying to do the best he can.</p> <p>15 Q. Mr. Waterhouse, during the time that</p> <p>16 you served as Highland's CFO, did Highland</p> <p>17 disclose to its outside auditors all of the</p> <p>18 loans that it made to each of the affiliates</p> <p>19 that you have identified?</p> <p>20 MR. RUKAVINA: Objection, legal</p> <p>21 conclusion.</p> <p>22 A. Yes.</p> <p>23 Q. To the best of your knowledge, while</p> <p>24 you were Highland's CFO, were all of the</p> <p>25 affiliate loans described in Highland's audited</p>
<p style="text-align: right;">Page 48</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 financial statements?</p> <p>3 MR. RUKAVINA: Objection, legal</p> <p>4 conclusion.</p> <p>5 A. When an audit was performed, any</p> <p>6 loans that were made by Highland to the</p> <p>7 affiliates were disclosed to auditors.</p> <p>8 Q. Are you aware of any loan that was</p> <p>9 made to any affiliate that was not disclosed to</p> <p>10 the auditors?</p> <p>11 A. I'm not aware.</p> <p>12 Q. To the best of your knowledge, did</p> <p>13 each of the affiliates who were --</p> <p>14 (inaudible) -- loaned from Highland execute a</p> <p>15 promissory note in connection with that loan?</p> <p>16 MR. RUKAVINA: Objection, legal</p> <p>17 conclusion.</p> <p>18 A. Sorry, you -- halfway through the</p> <p>19 question it got muffled.</p> <p>20 Can you repeat that again?</p> <p>21 Q. To the best of your knowledge, did</p> <p>22 every affiliate execute a promissory note in</p> <p>23 connection with each loan that it obtained from</p> <p>24 Highland?</p> <p>25 MR. RUKAVINA: Objection, legal</p>	<p style="text-align: right;">Page 49</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 conclusion.</p> <p>3 A. Yes.</p> <p>4 Q. You are not aware of any loan that</p> <p>5 any affiliate ever obtained from Highland where</p> <p>6 the affiliate did not give a promissory note in</p> <p>7 return; is that fair?</p> <p>8 A. Yes, I'm not aware.</p> <p>9 Q. And to the best of your knowledge,</p> <p>10 did Highland loan to each affiliate an amount</p> <p>11 of money equal to the principal amount of each</p> <p>12 promissory note?</p> <p>13 MR. RUKAVINA: Objection, legal</p> <p>14 conclusion.</p> <p>15 A. Yes.</p> <p>16 Q. During the time that you served as</p> <p>17 CFO, did Highland ever loan money to</p> <p>18 Mark Okada?</p> <p>19 A. I -- I don't recall.</p> <p>20 Q. Did you ever see any promissory</p> <p>21 notes executed by Mark Okada?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you know if Highland ever forgave</p> <p>24 any loan that it ever made to Mr. Okada?</p> <p>25 A. I don't recall.</p>

<p style="text-align: right;">Page 50</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you recall if Mr. Okada paid back</p> <p>3 all principal and interest due and owing under</p> <p>4 any loan he obtained from Highland?</p> <p>5 MS. DEITSCH-PEREZ: Objection to</p> <p>6 form.</p> <p>7 MS. DANDENEAU: Objection to form.</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall whether – during your</p> <p>10 time as CFO, whether Highland ever loaned money</p> <p>11 to Jim Dondero?</p> <p>12 A. Yes.</p> <p>13 Q. To the best of your knowledge, did</p> <p>14 Mr. Dondero sign and deliver to Highland a</p> <p>15 promissory note in connection with each loan</p> <p>16 that he obtained from Highland?</p> <p>17 A. If you are referring to the</p> <p>18 promissory notes that, you know, part of</p> <p>19 Highland's records, yes.</p> <p>20 Q. Okay. You're not aware of any loan</p> <p>21 that Mr. Dondero took from Highland that wasn't</p> <p>22 backed up by – by a promissory note with a</p> <p>23 face – with a principal amount equal to the</p> <p>24 amount of the loan; correct?</p> <p>25 A. Am I aware that Jim Dondero took a</p>	<p style="text-align: right;">Page 51</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 loan?</p> <p>3 Q. Without giving a – let me ask a</p> <p>4 better question. I'm sorry, Mr. Waterhouse.</p> <p>5 Are you aware of any loan that</p> <p>6 Mr. Dondero obtained from Highland where he</p> <p>7 didn't give a promissory note in return?</p> <p>8 A. I'm not aware.</p> <p>9 Q. During the time that you served as</p> <p>10 Highland's CFO, did Highland ever forgive any</p> <p>11 loans, in whole or in part, that it made to</p> <p>12 Mr. Dondero?</p> <p>13 A. Not that I'm aware.</p> <p>14 Q. At the time that you served as</p> <p>15 Highland's CFO, did Highland ever forgive any</p> <p>16 loan, in whole or in part, that it made to any</p> <p>17 affiliate as we've defined the term today?</p> <p>18 A. Not that I'm aware.</p> <p>19 Q. During the time that you served as</p> <p>20 Highland's CFO, did Highland ever forgive, in</p> <p>21 whole or in part, any loan that it ever made to</p> <p>22 any officer or employee?</p> <p>23 A. Highland forgave loans to officers</p> <p>24 and employees. It may not have been at the</p> <p>25 time when my title was CFO.</p>
<p style="text-align: right;">Page 52</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. And so I appreciate the</p> <p>3 distinction.</p> <p>4 Is it fair to say that, to the best</p> <p>5 of your knowledge, Highland did not forgive a</p> <p>6 loan that it made to an officer or employee</p> <p>7 after 2013?</p> <p>8 MS. DANDENEAU: Objection to form.</p> <p>9 A. I don't recall.</p> <p>10 Q. To the best of your knowledge, did</p> <p>11 Highland disclose to its auditors every</p> <p>12 instance where it forgave, in whole or in part,</p> <p>13 a loan that it had made to one of its officers</p> <p>14 or employees?</p> <p>15 A. No.</p> <p>16 Q. Can you think of – can you – can</p> <p>17 you identify any loan to an officer or employee</p> <p>18 that was forgiven by Highland, in whole or in</p> <p>19 part, that was not disclosed to Highland's</p> <p>20 outside auditors?</p> <p>21 A. Look, I don't recall all of the</p> <p>22 loans and the loan forgiveness. I just know as</p> <p>23 part of the audit process there is a</p> <p>24 materiality concept.</p> <p>25 So if there were loans to employees</p>	<p style="text-align: right;">Page 53</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 that were of – you know, that were deemed</p> <p>3 immaterial, those items may not have been</p> <p>4 disclosed by the team to the auditors.</p> <p>5 Q. I appreciate that.</p> <p>6 Do you have an understanding as to</p> <p>7 what the level of materiality was?</p> <p>8 A. I don't recall.</p> <p>9 Q. As the CFO of Highland, to the best</p> <p>10 of your knowledge, did Highland disclose to its</p> <p>11 outside auditors every loan that was forgiven,</p> <p>12 in whole or in part, that was material as that</p> <p>13 term was defined by the outside auditors?</p> <p>14 A. Yes.</p> <p>15 Q. And do you recall where – do you</p> <p>16 recall where the definition of materiality can</p> <p>17 be found for – for this particular purpose?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 A. No. You – I don't determine</p> <p>20 materiality.</p> <p>21 Q. Okay. I'm just asking you if you</p> <p>22 can help me understand where it is, but I think</p> <p>23 we will find it in a few minutes.</p> <p>24 You are aware that Highland has</p> <p>25 commenced lawsuits against each of the</p>

<p style="text-align: right;">Page 54</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 affiliates, as we've defined the term, to</p> <p>3 collect under certain promissory notes; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And are you familiar with the notes</p> <p>7 that are issue – at issue in the lawsuits?</p> <p>8 MS. DANDENEAU: Objection to form.</p> <p>9 A. Generally familiar.</p> <p>10 Q. Can we refer to the lawsuits that</p> <p>11 Highland has commenced against the affiliates</p> <p>12 collectively as the lawsuits?</p> <p>13 A. Yes. And, again, the affiliates are</p> <p>14 NexPoint, HCMFA, HCMS, and HCRE.</p> <p>15 Q. And Mr. Dondero?</p> <p>16 A. Okay. See, that is a new – and now</p> <p>17 Mr. Dondero is included in your affiliate</p> <p>18 definition.</p> <p>19 Q. I just –</p> <p>20 A. I thought affiliates – I thought</p> <p>21 affiliates were just the four prior entities,</p> <p>22 so I just want to be clear.</p> <p>23 Q. I appreciate that. So let's –</p> <p>24 let's keep them separate and let's refer to the</p> <p>25 four corporate entities as the affiliates, and</p>	<p style="text-align: right;">Page 55</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Mr. Dondero we will call Mr. Dondero. Okay?</p> <p>3 A. Okay. Thank you. As you can see,</p> <p>4 Mr. Morris, there is a lot of entities – a lot</p> <p>5 here. I just want to be clear.</p> <p>6 Q. Okay. Now, the affiliates of</p> <p>7 Mr. Dondero signed promissory notes that are</p> <p>8 not subject to the lawsuit.</p> <p>9 Do you understand that?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. The affiliates and Mr. Dondero</p> <p>12 signed –</p> <p>13 Q. You know what? I will skip it.</p> <p>14 That is okay. Okay.</p> <p>15 From time to time while you were</p> <p>16 Highland's CFO, payments were applied against</p> <p>17 principal and interests that were due under the</p> <p>18 notes that were tendered by the affiliates and</p> <p>19 Mr. Dondero; correct?</p> <p>20 MR. RUKAVINA: Objection to the</p> <p>21 extent that calls for a legal conclusion.</p> <p>22 A. Yes.</p> <p>23 Q. Did Highland have a process where –</p> <p>24 whereby payments would be applied against</p> <p>25 principal and interest against the notes that</p>
<p style="text-align: right;">Page 56</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 were given by the affiliates and Mr. Dondero?</p> <p>3 A. Yes.</p> <p>4 Q. Can you describe the process for me?</p> <p>5 A. The process, payment should be</p> <p>6 applied as laid out in the – in the promissory</p> <p>7 note.</p> <p>8 Q. From time to time were payments made</p> <p>9 that were not required under the promissory</p> <p>10 notes?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. Yes.</p> <p>13 Q. Who was responsible for deciding</p> <p>14 when and how much the payments would be made</p> <p>15 with respect to each of the notes that were</p> <p>16 issued by the affiliates and Mr. Dondero?</p> <p>17 A. Who was responsible for deciding how</p> <p>18 much was paid prior to the due date?</p> <p>19 Q. Yes.</p> <p>20 A. I don't know.</p> <p>21 Q. Did you approve of each payment that</p> <p>22 was made against principal and interest on the</p> <p>23 notes that were given by the affiliates and</p> <p>24 Mr. Dondero?</p> <p>25 MS. DANDENEAU: Objection to form.</p>	<p style="text-align: right;">Page 57</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Did I approve the payments? I</p> <p>3 approve – I approve – if there was cash – if</p> <p>4 there was cash being repaid on a note payment,</p> <p>5 yes, I approved in the general sense of being</p> <p>6 made aware of the payment and the amount.</p> <p>7 Q. And are you the person who</p> <p>8 authorized Highland's employees to effectuate</p> <p>9 those payments?</p> <p>10 A. Yes.</p> <p>11 Q. When you gave the instruction to</p> <p>12 effectuate the payment, did you obtain</p> <p>13 Mr. Dondero's prior approval?</p> <p>14 A. I mean, it – I mean, it – it</p> <p>15 depends.</p> <p>16 Q. Can you think of any instance where</p> <p>17 you directed Highland's employees to make a</p> <p>18 payment of principal or interest against any</p> <p>19 note that was tendered by an affiliate or</p> <p>20 Mr. Dondero that Mr. Dondero did not approve of</p> <p>21 in advance?</p> <p>22 A. I can't recall specifically.</p> <p>23 Q. Can you identify – withdrawn.</p> <p>24 Did Mr. Dondero ever tell you that a</p> <p>25 payment that was made against principal and</p>

<p style="text-align: right;">Page 58</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 interest due under one of the notes that was</p> <p>3 tendered by an affiliate or himself should not</p> <p>4 have been made?</p> <p>5 A. Yes.</p> <p>6 Q. Can you identify the payment for me?</p> <p>7 A. It would be for -- for NexPoint</p> <p>8 Advisors.</p> <p>9 Q. Okay. And when did Mr. Dondero tell</p> <p>10 you that a payment that you had initiated on</p> <p>11 behalf of NexPoint should not have been made?</p> <p>12 A. I wasn't initiating payment. It was</p> <p>13 in the context of the -- I think you used this</p> <p>14 term, "the advisors," so NexPoint Advisors and</p> <p>15 Highland Capital Management Fund Advisors had</p> <p>16 overpaid on certain agreements with Highland</p> <p>17 Capital Management, L.P. And as a part of that</p> <p>18 process, the advisors -- what I was told at the</p> <p>19 time were in talks and negotiations and</p> <p>20 discussions with Highland Capital Management,</p> <p>21 L.P., on offsets in relation to those</p> <p>22 overpayments.</p> <p>23 Q. When did this conversation take</p> <p>24 place?</p> <p>25 MS. DANDENEAU: Objection to form.</p>	<p style="text-align: right;">Page 59</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall specifically.</p> <p>3 Q. Do you recall what year it was?</p> <p>4 A. Yes.</p> <p>5 Q. What year did the conversation with</p> <p>6 Mr. Dondero take place that you just described?</p> <p>7 A. 2020.</p> <p>8 Q. Okay. Do you remember if it was</p> <p>9 December 2020?</p> <p>10 A. It -- it -- I don't -- I don't</p> <p>11 recall what month specifically, but it would</p> <p>12 have been November or December.</p> <p>13 Q. And we're talking here about a</p> <p>14 payment of principal and/or interest that was</p> <p>15 due -- withdrawn.</p> <p>16 We're talking here about a payment</p> <p>17 of principal and interest that was applied</p> <p>18 against NexPoint's note; correct?</p> <p>19 MS. DANDENEAU: Objection to form.</p> <p>20 A. I don't recall what that payment</p> <p>21 consisted of.</p> <p>22 Q. Is it possible that the payment you</p> <p>23 have in mind related to the shared services</p> <p>24 agreement?</p> <p>25 MS. DANDENEAU: Objection to form.</p>
<p style="text-align: right;">Page 60</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. No.</p> <p>3 Q. Are you certain that the payment --</p> <p>4 that the payment that you have in mind related</p> <p>5 to the promissory note that NexPoint issued in</p> <p>6 favor of Highland?</p> <p>7 MS. DANDENEAU: Objection to form.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Other than that one payment,</p> <p>10 can you identify any other instance where</p> <p>11 Mr. Dondero told you that a payment should not</p> <p>12 have been applied against principal and</p> <p>13 interest under any promissory note tendered by</p> <p>14 any affiliate or Mr. Dondero?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 MS. DEITSCH-PEREZ: Objection to</p> <p>17 form.</p> <p>18 A. Not that I recall.</p> <p>19 Q. Thank you very much.</p> <p>20 Do you know if Mr. Dondero approved</p> <p>21 in advance of each loan made to each affiliate</p> <p>22 and himself during the time that you were the</p> <p>23 CFO?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">Page 61</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes, generally.</p> <p>3 Q. Can you identify any loan that was</p> <p>4 ever made to an affiliate or to Mr. Dondero</p> <p>5 that Mr. Dondero did not approve of in advance?</p> <p>6 A. Other than the ones that are in</p> <p>7 dispute, I'm not aware.</p> <p>8 Q. Do you believe that Mr. Dondero did</p> <p>9 not approve of each of the loans that are in</p> <p>10 dispute in advance of the time that the loan</p> <p>11 was made?</p> <p>12 MS. DANDENEAU: Objection to form.</p> <p>13 A. Given what is in the dispute, you</p> <p>14 know, and -- and -- and the way things might --</p> <p>15 yeah, I mean...</p> <p>16 Q. I am not asking about the dispute,</p> <p>17 and it was probably my mistake to follow you</p> <p>18 there.</p> <p>19 Were you aware of every loan made by</p> <p>20 Highland to each of its affiliates and</p> <p>21 Mr. Dondero while you were the CFO at the time</p> <p>22 each loan was made?</p> <p>23 A. Was I aware of every loan, yes.</p> <p>24 Q. Okay. And if you put yourself back</p> <p>25 in time, do you recall that any of the loans</p>

<p style="text-align: right;">Page 62</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 that were made to one of the affiliates or</p> <p>3 Mr. Dondero during the time that you were the</p> <p>4 CFO was made without Mr. Dondero's prior</p> <p>5 knowledge and approval?</p> <p>6 A. Not that I recall.</p> <p>7 Q. Thank you. In fact, do you – as</p> <p>8 the CFO, would you have allowed Highland to</p> <p>9 loan money to an affiliate or to Mr. Dondero</p> <p>10 without obtaining Mr. Dondero's prior approval?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. I can't – there was so many times</p> <p>13 over the years, I can't speak for every single</p> <p>14 one, but generally, yes, I – I spoke to him.</p> <p>15 Q. You – you never – you never –</p> <p>16 withdrawn. I will just take that.</p> <p>17 Can you recall any payment that was</p> <p>18 ever made against principal and interest on a</p> <p>19 note that was issued in favor of Highland by an</p> <p>20 affiliate or Mr. Dondero that you personally</p> <p>21 did not know about in advance?</p> <p>22 A. There are so many through the years,</p> <p>23 I don't – I don't – I don't recall every</p> <p>24 single one.</p> <p>25 Q. Okay. Can you identify any payment</p>	<p style="text-align: right;">Page 63</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 that was made against principal and interest on</p> <p>3 any note tendered by any affiliate or</p> <p>4 Mr. Dondero that you didn't know about in</p> <p>5 advance?</p> <p>6 A. I don't recall.</p> <p>7 Q. Other than Mr. Dondero – withdrawn.</p> <p>8 Did anybody at Highland have the</p> <p>9 authority to make a payment against principal</p> <p>10 and interest due under a loan given to the</p> <p>11 affiliates and Mr. Dondero without your</p> <p>12 knowledge and approval?</p> <p>13 MS. DANDENEAU: Objection to form.</p> <p>14 A. Sorry, there was – to make a</p> <p>15 payment on an affiliate loan, what you are</p> <p>16 saying would it require my knowledge and</p> <p>17 approval, yes.</p> <p>18 Q. Okay. I appreciate that. Thank</p> <p>19 you.</p> <p>20 Did anybody at Highland have the</p> <p>21 authority, to the best of your knowledge, to</p> <p>22 effectuate a loan to an affiliate without</p> <p>23 Mr. Dondero's prior knowledge and approval?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I can't speak for all, but</p>
<p style="text-align: right;">Page 64</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 generally, yes.</p> <p>3 Q. Did you personally communicate with</p> <p>4 Mr. Dondero to let him know each time a payment</p> <p>5 of principal or interest was being made against</p> <p>6 any note that was tendered by an affiliate or</p> <p>7 Mr. Dondero to Highland?</p> <p>8 A. I don't – are you saying, did I let</p> <p>9 Mr. Dondero know if a payment was made on any</p> <p>10 affiliate or loan to Mr. Dondero? I mean,</p> <p>11 not – not every – no.</p> <p>12 Q. Let me ask it this way: Did you</p> <p>13 have a practice of informing Mr. Dondero when</p> <p>14 payments were made against principal and</p> <p>15 interest on any note that was tendered by an</p> <p>16 affiliate or Mr. Dondero?</p> <p>17 MS. DEITSCH-PEREZ: Objection to</p> <p>18 form.</p> <p>19 MS. DANDENEAU: Objection to form.</p> <p>20 A. No, I did not.</p> <p>21 Q. Did Mr. Dondero ever tell you that a</p> <p>22 payment of principal or interest had been made</p> <p>23 against a note that was tendered by an</p> <p>24 affiliate or himself that he had been unaware</p> <p>25 of?</p>	<p style="text-align: right;">Page 65</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Not that I recall.</p> <p>3 Q. Are you aware that Mr. Dondero and</p> <p>4 the affiliates – withdrawn.</p> <p>5 Are you aware that Mr. Dondero</p> <p>6 NexPoint, HCRE, and HCMS all contend that they</p> <p>7 do not have to pay on any of the notes they</p> <p>8 issued because they are subject to an oral</p> <p>9 agreement between Mr. Dondero and Nancy</p> <p>10 Dondero, in her capacity as the trustee of the</p> <p>11 Dugaboy Investment Trust?</p> <p>12 MS. DANDENEAU: Objection to form.</p> <p>13 A. I didn't – I didn't – I didn't</p> <p>14 know that it was all notes.</p> <p>15 Q. Okay. Are you – did you ever learn</p> <p>16 that there was an oral agreement between Jim</p> <p>17 Dondero and Nancy Dondero pertaining to any</p> <p>18 notes issued by any affiliate or Mr. Dondero?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. Yes.</p> <p>22 Q. Do you have any understanding as to</p> <p>23 the terms of that agreement?</p> <p>24 A. Yes.</p> <p>25 Q. What is your understanding of the</p>

<p style="text-align: right;">Page 66</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 terms of the agreement?</p> <p>3 A. That there were certain milestones</p> <p>4 that had to be reached.</p> <p>5 Q. Do you have any understanding of the</p> <p>6 terms of the agreement between Mr. Dondero and</p> <p>7 Nancy Dondero concerning any of the notes</p> <p>8 issued by the affiliates or Mr. Dondero other</p> <p>9 than that there have to be milestones reached?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 A. There are milestones, I found out</p> <p>13 yesterday, or there was some –</p> <p>14 MS. DANDENEAU: Okay. I'm just</p> <p>15 going to object to the extent that you</p> <p>16 learned anything in conversations with</p> <p>17 counsel, please don't reveal – that is</p> <p>18 privileged, and don't reveal any privileged</p> <p>19 communications.</p> <p>20 THE WITNESS: Okay.</p> <p>21 A. So I'm not aware of anything else.</p> <p>22 Q. Do you know what the milestones</p> <p>23 were?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I don't.</p>	<p style="text-align: right;">Page 67</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you know anything about – do you</p> <p>3 know what promissory notes the agreement</p> <p>4 covered?</p> <p>5 A. I don't.</p> <p>6 Q. Do you know if – if Jim and Nancy</p> <p>7 Dondero entered into one agreement or more than</p> <p>8 one agreement?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. I don't know.</p> <p>12 Q. Do you know if the agreement is in</p> <p>13 writing?</p> <p>14 A. I don't know.</p> <p>15 Q. How did you learn of the existence</p> <p>16 of the agreement?</p> <p>17 MS. DANDENEAU: Objection to form.</p> <p>18 Again –</p> <p>19 A. I don't – I don't recall who told</p> <p>20 me.</p> <p>21 Q. You have no recollection of who told</p> <p>22 you about this agreement between Jim and Nancy</p> <p>23 Dondero?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>
<p style="text-align: right;">Page 68</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall.</p> <p>3 Q. Do you recall how you learned of the</p> <p>4 agreement?</p> <p>5 Was it in a meeting? Was it in a</p> <p>6 phone call? Was it in an email?</p> <p>7 A. I don't recall.</p> <p>8 Q. Do you recall when you learned of</p> <p>9 the agreement?</p> <p>10 A. Not specifically.</p> <p>11 Q. Do you recall what year you learned</p> <p>12 of the agreement?</p> <p>13 A. In – look, I mean, there are so</p> <p>14 many notes. I may be getting – I believe it</p> <p>15 was 2020.</p> <p>16 Q. All right. I'm not asking about</p> <p>17 notes, sir. I'm asking about the agreement</p> <p>18 that you testified you knew about between Jim</p> <p>19 and Don- – Nancy Dondero. Okay.</p> <p>20 Do you understand my question now?</p> <p>21 Should I ask my question again?</p> <p>22 A. Yeah, sure. Go ahead.</p> <p>23 Q. I'm going to use the word</p> <p>24 "agreement" to refer to the agreement that</p> <p>25 Mr. Dondero and Nancy Dondero entered into</p>	<p style="text-align: right;">Page 69</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 where you understood that certain milestones</p> <p>3 had to be reached. Okay?</p> <p>4 A. Uh-huh.</p> <p>5 MS. DANDENEAU: Objection.</p> <p>6 MS. DEITSCH-PEREZ: Object to the</p> <p>7 form.</p> <p>8 MR. MORRIS: Just defining a term,</p> <p>9 what is the objection.</p> <p>10 MS. DEITSCH-PEREZ: The objection –</p> <p>11 MR. MORRIS: I will move on. I will</p> <p>12 move on.</p> <p>13 MS. DEITSCH-PEREZ: John –</p> <p>14 Q. Sir, are you okay with that</p> <p>15 definition of agreement?</p> <p>16 A. Okay.</p> <p>17 Q. Okay. So you don't recall who –</p> <p>18 who informed you of the existence of the</p> <p>19 agreement; is that right?</p> <p>20 A. I don't recall.</p> <p>21 Q. You don't recall who told you the</p> <p>22 terms of the agreement.</p> <p>23 Do I have that right?</p> <p>24 A. Correct.</p> <p>25 Q. And you don't recall if you learned</p>

<p style="text-align: right;">Page 70</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 about the agreement in a meeting, through an</p> <p>3 email, or through a phone call.</p> <p>4 Do I have that right?</p> <p>5 A. I don't recall.</p> <p>6 Q. Can you tell me when you learned of</p> <p>7 the agreement?</p> <p>8 A. I don't – I don't – I don't</p> <p>9 remember specifically.</p> <p>10 Q. Can you tell me if you learned of</p> <p>11 the agreement before or after the petition</p> <p>12 date?</p> <p>13 A. It would have been – it would have</p> <p>14 been after.</p> <p>15 Q. Can you tell me if you learned of</p> <p>16 the agreement before or after January 9th,</p> <p>17 2020?</p> <p>18 A. It would have been after.</p> <p>19 Q. Can you tell me if you learned of</p> <p>20 the agreement before or after you left Highland</p> <p>21 Capital Management in February of 2021?</p> <p>22 A. I don't – I don't – I don't know.</p> <p>23 Q. It is possible that you learned of</p> <p>24 it while you were a Highland employee.</p> <p>25 Do I have that right?</p>	<p style="text-align: right;">Page 71</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't remember the – I mean, it</p> <p>3 was sometime in 2021. I don't remember when.</p> <p>4 Q. All right. So to the best of your</p> <p>5 recollection, it was in 2021 but you don't</p> <p>6 recall if it was before or after you ceased to</p> <p>7 be a Highland employee.</p> <p>8 Do I have that right?</p> <p>9 A. Yeah, I mean, it was – it was</p> <p>10 likely after I was – after I left Highland</p> <p>11 because, if I put myself back into the last</p> <p>12 days of – of 2021, it was – you know, the</p> <p>13 communications with Mr. Dondero were – were –</p> <p>14 were – there weren't as many communications</p> <p>15 because of the circumstances.</p> <p>16 Q. And so based on that you believe</p> <p>17 that it is most likely that you learned of this</p> <p>18 agreement sometime after you left Highland</p> <p>19 employment?</p> <p>20 A. I wouldn't use the term "most</p> <p>21 likely." I don't recall specifically. I don't</p> <p>22 recall.</p> <p>23 Q. Do you recall ever telling Jim Seery</p> <p>24 about this agreement?</p> <p>25 A. No, I don't – I didn't tell</p>
<p style="text-align: right;">Page 72</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Jim Seery.</p> <p>3 Q. Did you tell anybody at DSI about</p> <p>4 this agreement?</p> <p>5 A. No.</p> <p>6 Q. Did you tell any of Highland's</p> <p>7 independent directors about this agreement?</p> <p>8 A. No.</p> <p>9 Q. Did you tell anybody at Pachulski</p> <p>10 Stang Ziehl & Jones about this agreement?</p> <p>11 A. No.</p> <p>12 Q. Did you tell any employee of</p> <p>13 Highland about this agreement?</p> <p>14 A. No.</p> <p>15 MS. DANDENEAU: Mr. Morris, it has</p> <p>16 been an hour and a half. Is this a good</p> <p>17 time for a break?</p> <p>18 MR. MORRIS: Sure.</p> <p>19 Q. Mr. Waterhouse, I will just remind</p> <p>20 you that during the break please don't speak</p> <p>21 with anybody about the deposition, the</p> <p>22 substance of your testimony or anything else</p> <p>23 concerning the deposition. Okay?</p> <p>24 A. Yes.</p> <p>25 MR. MORRIS: So it is 11:02. We're</p>	<p style="text-align: right;">Page 73</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 at 11:02 your time. Let's come back, I</p> <p>3 guess, at 15 – at 11:15 your time.</p> <p>4 VIDEOGRAPHER: We're going off the</p> <p>5 record at 11:02 a.m.</p> <p>6 (Recess taken 11:02 a.m. to 11:20 a.m.)</p> <p>7 VIDEOGRAPHER: We are back on the</p> <p>8 record at 11:20 a.m.</p> <p>9 Q. Mr. Waterhouse, did you speak with</p> <p>10 anybody during the break about this deposition?</p> <p>11 A. No.</p> <p>12 MS. DANDENEAU: Other than – other</p> <p>13 than his counsel.</p> <p>14 Q. Did you speak to your counsel about</p> <p>15 the substance of your deposition today?</p> <p>16 A. No, I didn't bring it up.</p> <p>17 Q. I didn't ask you if you brought it</p> <p>18 up. I asked you if you had any conversation</p> <p>19 with your lawyer about the substance of your</p> <p>20 deposition.</p> <p>21 MS. DANDENEAU: Yes, he did.</p> <p>22 Q. Can you tell me what the – you</p> <p>23 discussed?</p> <p>24 MS. DANDENEAU: No, I object to</p> <p>25 that. He's not going to answer. That is a</p>

<p style="text-align: right;">Page 74</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 privileged conversation.</p> <p>3 MR. MORRIS: So I just want to make</p> <p>4 sure that I understand. During the break</p> <p>5 you spoke with your client about the</p> <p>6 substance of this deposition; is that</p> <p>7 right?</p> <p>8 MS. DANDENEAU: Yes, John.</p> <p>9 MR. MORRIS: And you refuse – you</p> <p>10 refuse to let your client tell me what was</p> <p>11 discussed; is that right?</p> <p>12 MS. DANDENEAU: That's correct.</p> <p>13 MR. MORRIS: You know, I had given</p> <p>14 the instruction prior to the break not to</p> <p>15 speak with counsel. I would have</p> <p>16 appreciated –</p> <p>17 MS. DANDENEAU: No, you didn't –</p> <p>18 actually, that is not true, Mr. Morris.</p> <p>19 You said not to speak with anyone. We</p> <p>20 never have interpreted that to mean</p> <p>21 conversations with counsel. That's never</p> <p>22 been – I have never, ever heard that</p> <p>23 instruction.</p> <p>24 MR. MORRIS: Okay. We will – we</p> <p>25 will – we will deal with it when and if we</p>	<p style="text-align: right;">Page 75</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 have to.</p> <p>3 Q. Mr. Waterhouse, after learning about</p> <p>4 the agreement, did you ask anybody if the</p> <p>5 agreement was reflected in a writing?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 A. No.</p> <p>8 Q. Did you ask anybody if the terms of</p> <p>9 the agreement were memorialized anywhere?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 MR. MORRIS: What is the –</p> <p>12 A. No.</p> <p>13 MS. DANDENEAU: Well, because you</p> <p>14 keep talking about this agreement and I –</p> <p>15 I – I think, Mr. Morris, that is really</p> <p>16 not clear what you mean by "the agreement."</p> <p>17 And maybe you can just go back and restate</p> <p>18 what that is.</p> <p>19 MR. MORRIS: Okay. Your client has</p> <p>20 agreed with me twice on the definition, but</p> <p>21 I will try one more time.</p> <p>22 Q. Mr. Waterhouse, do you understand</p> <p>23 that when I use the term "agreement," I'm</p> <p>24 referring to the agreement between Jim and</p> <p>25 Nancy Dondero concerning certain promissory</p>
<p style="text-align: right;">Page 76</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 notes where you learned that one of the terms</p> <p>3 of the agreement was milestones reached?</p> <p>4 A. Okay.</p> <p>5 Q. And did you understand that that was</p> <p>6 the – the agreement that we were referring to</p> <p>7 every time we used the word "agreement" in this</p> <p>8 deposition?</p> <p>9 A. I don't know anything about this</p> <p>10 agreement. So, look, I do – it – I don't</p> <p>11 know whether –</p> <p>12 Q. Let's – let's try this again.</p> <p>13 A. Yeah. Look, I don't know what this</p> <p>14 agreement relates.</p> <p>15 MS. DEITSCH-PEREZ: John, John –</p> <p>16 Q. Let me try –</p> <p>17 MS. DEITSCH-PEREZ: John, please let</p> <p>18 the witness finish.</p> <p>19 MR. MORRIS: Please stop. Please</p> <p>20 stop. Please stop talking.</p> <p>21 MS. DEITSCH-PEREZ: No, you stop.</p> <p>22 Let the witness –</p> <p>23 MR. MORRIS: Stop talking.</p> <p>24 MS. DEITSCH-PEREZ: – finish – you</p> <p>25 interrupted him.</p>	<p style="text-align: right;">Page 77</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. MORRIS: You know what, you</p> <p>3 guys, this is really wrong. It is really,</p> <p>4 really wrong. Okay?</p> <p>5 I had the witness agree not once,</p> <p>6 but twice to the definition of agreement.</p> <p>7 Okay? I'm going to try and do it a third</p> <p>8 time.</p> <p>9 MS. DANDENEAU: No, but, please,</p> <p>10 John, really –</p> <p>11 MR. MORRIS: No, please stop</p> <p>12 talking. Please. It is my deposition.</p> <p>13 Object to questions.</p> <p>14 MS. DANDENEAU: No, but also you</p> <p>15 instructed him that – that if you were</p> <p>16 going – if you were interrupting him, that</p> <p>17 he should remind you that you're</p> <p>18 interrupting him and – and –</p> <p>19 MR. MORRIS: Let him do that. Let</p> <p>20 him do that.</p> <p>21 MS. DANDENEAU: Okay. Well, you –</p> <p>22 MR. MORRIS: Please stop talking.</p> <p>23 A. Okay. I don't know any of the</p> <p>24 details of these agreements. I don't know</p> <p>25 anything about them. I heard – someone – I</p>

<p style="text-align: right;">Page 78</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 don't know who, I don't know when, as you</p> <p>3 asked, sometime in '21, someone told me about</p> <p>4 this – or I don't honestly know – I don't</p> <p>5 even recall exactly how I was made aware of</p> <p>6 this, but I was. I don't know – I don't know</p> <p>7 any of these details, and I'm getting – again,</p> <p>8 there is, you know, I – I – I had a passing</p> <p>9 conversation with – with Jim at some point</p> <p>10 on – on some – on the executive comp, and I'm</p> <p>11 getting confused of what is what, because</p> <p>12 again, I don't know any of these details.</p> <p>13 Q. Okay. Let me try again,</p> <p>14 Mr. Waterhouse, and I apologize.</p> <p>15 Are you aware of any agreement</p> <p>16 between Jim Dondero and Nancy Dondero</p> <p>17 concerning any promissory note that was given</p> <p>18 to Highland by any affiliate or Mr. Dondero?</p> <p>19 MS. DEITSCH-PEREZ: Object to the</p> <p>20 form.</p> <p>21 A. I've heard of an agreement. That</p> <p>22 is – that is – I mean, if you are using aware</p> <p>23 as heard, sure.</p> <p>24 Q. And you understand that one of the</p> <p>25 terms of the agreement is that it was based on</p>	<p style="text-align: right;">Page 79</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 milestones that had to be reached; is that</p> <p>3 right?</p> <p>4 MS. DANDENEAU: Objection to form.</p> <p>5 A. That was one of the words that was</p> <p>6 used when I heard about it, yes.</p> <p>7 Q. And when you heard about this</p> <p>8 agreement that had a term in it concerning</p> <p>9 milestones reached, did you ask the person who</p> <p>10 was telling you about the agreement whether or</p> <p>11 not it was in writing?</p> <p>12 A. I did not.</p> <p>13 Q. Did you ask any questions at all?</p> <p>14 MS. DANDENEAU: Objection to form.</p> <p>15 A. Not that I recall.</p> <p>16 Q. But do you understand that going</p> <p>17 forward, we're going to refer to the agreement</p> <p>18 as the agreement that you just described that</p> <p>19 you were –</p> <p>20 MS. DANDENEAU: Object to the form.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. You don't have any personal</p> <p>23 knowledge concerning the terms of the</p> <p>24 agreement; correct?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p style="text-align: right;">Page 80</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 form.</p> <p>3 Q. You can answer.</p> <p>4 A. I don't – I heard about the</p> <p>5 agreement. I don't know anything – I heard</p> <p>6 there was an agreement. That is – again, as I</p> <p>7 testified before – I said before, heard about</p> <p>8 it, don't know the details. I believe it was</p> <p>9 sometime this year.</p> <p>10 Q. Do you have any personal knowledge</p> <p>11 about the terms of the agreement, sir?</p> <p>12 MS. DANDENEAU: Objection to form.</p> <p>13 A. Other than what I have previously</p> <p>14 discussed, I don't – I don't know.</p> <p>15 Q. Did – did Mr. Dondero tell you</p> <p>16 about the existence of the agreement?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you recall the source of your</p> <p>19 information when you learned about the</p> <p>20 agreement?</p> <p>21 A. No, I don't – I don't recall. I</p> <p>22 don't remember. I just – I heard about it</p> <p>23 generally. I don't remember – I don't</p> <p>24 remember who, how, if, how. I don't remember.</p> <p>25 Q. You know, Mr. Waterhouse, I just</p>	<p style="text-align: right;">Page 81</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 want to be clear that I never would have asked</p> <p>3 you to appear at this deposition if your name</p> <p>4 hadn't been included in responses to discovery</p> <p>5 as to somebody with knowledge about the – who</p> <p>6 was told about the existence of the agreement.</p> <p>7 That is what prompted me do this,</p> <p>8 and I really do feel compelled to tell you that</p> <p>9 I otherwise would never have called you as a</p> <p>10 witness. So I regret that you're being put</p> <p>11 through this today. I had no intention of</p> <p>12 burdening you or taking your time, but that is</p> <p>13 the reason that we issued the subpoena is</p> <p>14 because certain of the defendants identified</p> <p>15 you as somebody –</p> <p>16 MS. DEITSCH-PEREZ: Mr. Morris, you</p> <p>17 are here to ask questions, not to have –</p> <p>18 MR. MORRIS: I feel badly for the</p> <p>19 guy. I really do.</p> <p>20 MS. DEITSCH-PEREZ: I'm sure you do.</p> <p>21 MR. MORRIS: I do. Stop.</p> <p>22 MS. DEITSCH-PEREZ: You stop.</p> <p>23 MR. MORRIS: I'm allowed.</p> <p>24 MS. DEITSCH-PEREZ: No, you're not</p> <p>25 allowed to have a chat with the witness.</p>

<p style="text-align: right;">Page 82</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Well, I hope that you</p> <p>3 appreciate what I'm saying here,</p> <p>4 Mr. Waterhouse.</p> <p>5 MS. DANDENEAU: All right. Let's go</p> <p>6 ahead and ask questions, and again, you're</p> <p>7 entitled to probe his – his knowledge</p> <p>8 of – whatever knowledge he has about</p> <p>9 this – this agreement and –</p> <p>10 MR. MORRIS: That is what I'm doing.</p> <p>11 MS. DANDENEAU: – he will answer</p> <p>12 the questions to the best that he can.</p> <p>13 MR. MORRIS: That is what I'm doing.</p> <p>14 Q. Mr. Waterhouse, I take it you do not</p> <p>15 know which promissory notes issued by which</p> <p>16 affiliates or Mr. Dondero are the subject of</p> <p>17 this agreement; do I have that right?</p> <p>18 A. Yes, I don't – I don't know.</p> <p>19 Q. Do you know of any way to determine</p> <p>20 which promissory notes issued by the affiliates</p> <p>21 and Mr. Dondero are the subject of this</p> <p>22 agreement other than asking Jim or Nancy</p> <p>23 Dondero?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I don't know.</p>	<p style="text-align: right;">Page 83</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did you ever make –</p> <p>3 A. I don't know anything about these</p> <p>4 agreements.</p> <p>5 Q. Did you ever make any effort to</p> <p>6 determine which promissory notes are subject to</p> <p>7 this agreement?</p> <p>8 A. No.</p> <p>9 Q. Did you ever ask anybody which</p> <p>10 promissory notes are subject to this agreement?</p> <p>11 A. No.</p> <p>12 Q. Do you know if there is a list</p> <p>13 anywhere of the promissory notes that are</p> <p>14 subject to this agreement?</p> <p>15 A. I'm not aware.</p> <p>16 Q. Have you ever seen the terms of the</p> <p>17 agreement written down anywhere?</p> <p>18 A. No.</p> <p>19 Q. Have you ever asked anybody whether</p> <p>20 the terms of the agreement were written down</p> <p>21 anywhere?</p> <p>22 A. I have not.</p> <p>23 Q. Did learning about the agreement</p> <p>24 cause you to do anything in response?</p> <p>25 MS. DANDENEAU: Objection to form.</p>
<p style="text-align: right;">Page 84</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. No.</p> <p>3 Q. Did anybody ever describe to you the</p> <p>4 nature of the milestones that you referred to</p> <p>5 earlier?</p> <p>6 A. No, I don't – I don't have any</p> <p>7 details of this.</p> <p>8 Q. That is fine.</p> <p>9 PricewaterhouseCoopers served as</p> <p>10 Highland's outside auditors prior to the</p> <p>11 petition date; correct?</p> <p>12 A. Yes.</p> <p>13 Q. You refer to PricewaterhouseCoopers</p> <p>14 as PwC?</p> <p>15 A. Yes.</p> <p>16 Q. PricewaterhouseCoopers audited</p> <p>17 Highland's financial statements on an annual</p> <p>18 basis; correct?</p> <p>19 A. During my – during my time as – as</p> <p>20 CFO, yes, PricewaterhouseCoopers was the</p> <p>21 auditor.</p> <p>22 Q. Do you know why Highland had its</p> <p>23 annual financial statements audited each year?</p> <p>24 A. Generally.</p> <p>25 Q. Tell me your general understanding</p>	<p style="text-align: right;">Page 85</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 as to the reason why Highland had its annual</p> <p>3 financial statements audited each year.</p> <p>4 A. From – from time to time, they were</p> <p>5 used – or asked for, as part of diligence or</p> <p>6 transactions or – or things of that nature.</p> <p>7 Q. And were they given to third parties</p> <p>8 for purposes of diligence or transactions from</p> <p>9 time to time?</p> <p>10 A. As far as I'm aware, yes.</p> <p>11 Q. And was it your understanding as the</p> <p>12 CFO that the third parties who received the</p> <p>13 financial statements in diligence or</p> <p>14 transactions was going to rely on those?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. I don't know – I don't know gen –</p> <p>17 I don't know specifically what they were going</p> <p>18 to rely on. You know, we would get requests</p> <p>19 for audited financial statements. I don't know</p> <p>20 what they were relying on.</p> <p>21 Q. And –</p> <p>22 A. You would have to ask them.</p> <p>23 Q. Did you personally play a role in</p> <p>24 PwC's annual audit and the conduct of the</p> <p>25 audit?</p>

<p style="text-align: right;">Page 86</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: Objection to form.</p> <p>3 A. During my tenure as CFO, I played a</p> <p>4 very minimal role.</p> <p>5 Q. What was the minimal role that you</p> <p>6 played?</p> <p>7 A. You know, again, it was -- it was to</p> <p>8 check in with the team, to make sure that, you</p> <p>9 know, audit -- the deadlines were being hit,</p> <p>10 information was being presented to the auditors</p> <p>11 in a -- in a timely fashion, but, you know,</p> <p>12 other than that, it was a very capable team</p> <p>13 that are still current employees of Highland</p> <p>14 and, you know, they -- they conducted 99</p> <p>15 percent of -- look, I don't want to give</p> <p>16 percentages. I mean, this is -- but I -- I --</p> <p>17 I played a minimal role towards the end.</p> <p>18 Before during my earlier years as</p> <p>19 CFO, I did more, and then as time went on, I</p> <p>20 did less in it.</p> <p>21 Q. Okay. Was there a person at</p> <p>22 Highland who was responsible for overseeing</p> <p>23 Highland's participation in PwC's audit during</p> <p>24 the time that you were the CFO?</p> <p>25 A. Yeah. I mean, there was -- there</p>	<p style="text-align: right;">Page 87</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 was a -- there was a point -- it varies. It</p> <p>3 varies by year, in function, in time and, you</p> <p>4 know, depending on the request, but yes, I</p> <p>5 mean, there is -- there is -- there is</p> <p>6 generally a point person of communication.</p> <p>7 Q. And who was the point person from</p> <p>8 2016 until the time you left Highland?</p> <p>9 A. I don't -- I don't know</p> <p>10 specifically, but it would have been, you</p> <p>11 know -- you know, someone on the corporate</p> <p>12 accounting team.</p> <p>13 Q. And was there a head of the</p> <p>14 corporate accounting team?</p> <p>15 A. Yes, so -- yes.</p> <p>16 Q. Who was the head of corporate</p> <p>17 accounting for the five years prior to the time</p> <p>18 you left Highland?</p> <p>19 A. I don't -- if you're asking from</p> <p>20 2016 on, I don't -- it was Dave Klos, but,</p> <p>21 again, there was -- there was changes to the</p> <p>22 team and the reporting structure. I don't</p> <p>23 remember exactly when that happened during --</p> <p>24 you know, over the last -- since 2016.</p> <p>25 Q. Did the folks who participated and</p>
<p style="text-align: right;">Page 88</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 ran the audit all report to you, directly or</p> <p>3 indirectly?</p> <p>4 A. Yes.</p> <p>5 Q. And did you have any responsibility</p> <p>6 for making sure that the audit report was</p> <p>7 accurate before it was finalized?</p> <p>8 A. Yeah. I mean, you know, that --</p> <p>9 that is -- my responsibility to the auditors</p> <p>10 was -- again, is -- and the CFO is to -- we are</p> <p>11 providing accurate financial statements; right?</p> <p>12 And -- and -- and as part of any</p> <p>13 audit, we disclose all relevant information as</p> <p>14 part of any audit.</p> <p>15 Q. Okay. And as the CFO, did you take</p> <p>16 steps to make sure that the audit report was</p> <p>17 accurate?</p> <p>18 A. I mean, I would say in a general</p> <p>19 sense, yes. But, again, I mean, I had a</p> <p>20 very -- I had a very capable and competent</p> <p>21 team. I wasn't managing them.</p> <p>22 You know, part of what I do is I let</p> <p>23 the team -- I want managers to grow. I want</p> <p>24 managers to have rope. And that is -- you</p> <p>25 know, I'm not a stand-behind-you type of guy.</p>	<p style="text-align: right;">Page 89</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 If you -- if you talk to my team members, I'm</p> <p>3 not micromanaging people. I want people to</p> <p>4 learn and grow in their function so they can go</p> <p>5 on and do bigger and better things with their</p> <p>6 careers.</p> <p>7 And so, yes, generally I was</p> <p>8 responsible for it, but I wanted the team to</p> <p>9 learn and grow and be responsible for the bulk</p> <p>10 of the audit.</p> <p>11 Q. Did you personally review each audit</p> <p>12 report before it was finalized to satisfy</p> <p>13 yourself that it was accurate?</p> <p>14 A. I don't -- I don't recall, you know,</p> <p>15 for every single -- we're talking 2016, there</p> <p>16 would have been three years, 2016 to '17, '18.</p> <p>17 I don't -- we're -- we're going back</p> <p>18 five years-plus. I don't -- you know, I don't</p> <p>19 recall.</p> <p>20 Q. Did you have a practice that you</p> <p>21 employed to make sure that you were satisfied</p> <p>22 that Highland's audit reports were true and</p> <p>23 accurate to the best of your knowledge?</p> <p>24 A. I mean, our -- the practice was set</p> <p>25 up with our -- the -- the practice to put</p>

<p style="text-align: right;">Page 90</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 together accurate audited or accurate financial</p> <p>3 statements is to your control environment.</p> <p>4 So, you know, the -- so the practice</p> <p>5 was to maintain a stable control environment</p> <p>6 which then the output is -- is accurate</p> <p>7 financial statements.</p> <p>8 So -- so, you know, if I was</p> <p>9 comfortable that the control environment was</p> <p>10 operating, then, you know, that would dictate</p> <p>11 how I would -- you know, what I might or might</p> <p>12 not do in a given year.</p> <p>13 Q. Okay. Do you recall ever being</p> <p>14 uncomfortable with the control environment</p> <p>15 during the period that you served as CFO?</p> <p>16 A. Yeah. I mean, look, yes, there are</p> <p>17 times -- you know, nothing is perfect. So</p> <p>18 there were -- there were times when, yes, you</p> <p>19 know -- there are times I learned I was</p> <p>20 uncomfortable with the control environment, and</p> <p>21 that is part of the management of the process</p> <p>22 and having, you know -- and -- and working</p> <p>23 through whatever obstacles present themselves.</p> <p>24 Q. Okay. Were you ever uncomfortable</p> <p>25 with the control process as it related to</p>	<p style="text-align: right;">Page 91</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 reporting and disclosures of loans to</p> <p>3 affiliates and Mr. Dondero?</p> <p>4 MS. DANDENEAU: Objection to form.</p> <p>5 A. I don't -- I don't recall --</p> <p>6 Q. So you don't recall --</p> <p>7 A. -- the --</p> <p>8 MS. DANDENEAU: Mr. Morris --</p> <p>9 A. I don't recall being uncomfortable.</p> <p>10 But, again, we're going back several years. I</p> <p>11 don't -- you know, the practice in an audit is</p> <p>12 to disclose all information to the auditors.</p> <p>13 And I don't -- I don't recall.</p> <p>14 Q. As part of the process of the audit,</p> <p>15 did you sign what is sometimes referred to as a</p> <p>16 management representation letter?</p> <p>17 A. Yes.</p> <p>18 MR. MORRIS: Can we put up on the</p> <p>19 screen a document that we have premarked as</p> <p>20 Exhibit 33.</p> <p>21 (Exhibit 33 marked.)</p> <p>22 MS. DANDENEAU: Mr. Morris, that is</p> <p>23 not in the binder; correct?</p> <p>24 MR. MORRIS: Correct.</p> <p>25 Q. So you will see, Mr. Waterhouse,</p>
<p style="text-align: right;">Page 92</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 this is a letter dated June 3rd. And if we</p> <p>3 could go to the signature page.</p> <p>4 And do you see that you and</p> <p>5 Mr. Dondero signed this document?</p> <p>6 A. Yes.</p> <p>7 Q. That is your signature; right?</p> <p>8 A. Yes.</p> <p>9 MR. MORRIS: Okay. Can you go back</p> <p>10 to the top.</p> <p>11 MS. DANDENEAU: Mr. Morris, can you</p> <p>12 have somebody post this in the chat so that</p> <p>13 we have can have a copy of this, please.</p> <p>14 MR. MORRIS: Yeah, sure. Asia, can</p> <p>15 you do that, please.</p> <p>16 Q. Okay. Do you see at the bottom of</p> <p>17 the second paragraph there is a reference to</p> <p>18 materiality?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. It says, Materiality used for</p> <p>21 purposes of these representations is</p> <p>22 \$1.7 million.</p> <p>23 Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And did PwC set that level of</p>	<p style="text-align: right;">Page 93</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 materiality?</p> <p>3 A. Yes.</p> <p>4 Q. And for purposes of the audit, did</p> <p>5 PwC set the level of materiality each year?</p> <p>6 A. Yes.</p> <p>7 Q. Did that number change over time?</p> <p>8 A. I'm not aware of what materiality is</p> <p>9 every single year, so -- but, you know, this</p> <p>10 number would likely fluctuate.</p> <p>11 Q. Okay. I'm going to go back to a</p> <p>12 question I asked you earlier today. And that</p> <p>13 is in connection -- this letter is issued in</p> <p>14 connection with the audit for the period ending</p> <p>15 12/31/2018; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And is it fair to say that if</p> <p>18 any -- actually, withdrawn. I'm going to take</p> <p>19 it outside of this.</p> <p>20 If Highland ever forgave the loan to</p> <p>21 any affiliate or any of its officers or</p> <p>22 employees, in whole or in part, to the best of</p> <p>23 your knowledge, would that forgiveness have</p> <p>24 been disclosed in the audited financial</p> <p>25 statements if it exceeded the level of</p>

<p style="text-align: right;">Page 94</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 materiality that PwC established?</p> <p>3 MS. DANDENEAU: Objection to form.</p> <p>4 A. So, again, during my tenure as CFO,</p> <p>5 and – Highland – it was – it is required to</p> <p>6 disclose any affiliate loans that are in excess</p> <p>7 of materiality.</p> <p>8 Now, the forgiveness of those loans</p> <p>9 may or may not – I mean, since materiality</p> <p>10 fluctuates every year, a – you know, if a loan</p> <p>11 was forgiven, it may or may not, you know –</p> <p>12 and, look, I would want to consult the guidance</p> <p>13 around this.</p> <p>14 It is not something we do – you</p> <p>15 know, it is not – you know, GAAP can be and</p> <p>16 disclosures can be very specialized so, again,</p> <p>17 we want to consult the guidance. But we would</p> <p>18 see if and what would need to be disclosed if</p> <p>19 it were deemed immaterial.</p> <p>20 Q. Did you and Mr. Dondero sign</p> <p>21 management representation letters of this type</p> <p>22 in each year in which you served as Highland's</p> <p>23 CFO?</p> <p>24 A. I – I – I will speak for myself.</p> <p>25 I signed them. There may have been others that</p>	<p style="text-align: right;">Page 95</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 signed as well. I don't – I don't recall.</p> <p>3 Q. But to the best of your knowledge,</p> <p>4 you, personally, signed a management</p> <p>5 representation letter in connection with</p> <p>6 Highland's audit each year that you served as</p> <p>7 the CFO; correct?</p> <p>8 A. I would say generally speaking,</p> <p>9 Mr. Morris. I don't recall for every single</p> <p>10 year, you know, generally, but I would want to</p> <p>11 refer to all the rep letters and see who signed</p> <p>12 them.</p> <p>13 Q. Do you recall Highland having its</p> <p>14 financial statements audited in any year during</p> <p>15 the period that you were a CFO where you didn't</p> <p>16 sign the management representation letter?</p> <p>17 A. I don't recall. But, John, we're</p> <p>18 going back five, six, seven, eight, nine,</p> <p>19 decade. I don't – I don't remember.</p> <p>20 Q. I don't want to go back that many</p> <p>21 decades, but I'm just asking you if you recall</p> <p>22 that there was you didn't sign it?</p> <p>23 A. I – I – I don't, but my memory</p> <p>24 is – again, I – I – I can't tell you what I</p> <p>25 did in 2012. I mean, I think generally, yes,</p>
<p style="text-align: right;">Page 96</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 but I don't – I don't know for sure, and I</p> <p>3 would want to rely on the document.</p> <p>4 Q. Let me ask the question a little bit</p> <p>5 differently then.</p> <p>6 Do you have any reason to believe</p> <p>7 that Highland had its annual financial audit</p> <p>8 and you did not sign a management</p> <p>9 representation letter in connection with that</p> <p>10 audit?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. I don't believe it would, but,</p> <p>13 again, I would want to – I don't recall and I</p> <p>14 would want to confirm it to – to make, you</p> <p>15 know, an affirmative – to give an affirmative</p> <p>16 answer.</p> <p>17 Q. Do you know whether PwC required</p> <p>18 management to sign management representation</p> <p>19 letters?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. Yes. I mean, it – management</p> <p>22 representation letters are signed by</p> <p>23 management.</p> <p>24 Q. Okay. And you know – do you</p> <p>25 have any understanding as to why PwC requires</p>	<p style="text-align: right;">Page 97</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 management to sign management representation</p> <p>3 letters?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. I don't know why PwC's – what PwC's</p> <p>7 specific practice is. I know generally what</p> <p>8 management representation letters are.</p> <p>9 Q. Okay. Do you personally – I'm not</p> <p>10 asking about PwC. I'm asking for you – I'm</p> <p>11 asking about you, do you have an understanding</p> <p>12 as to why the auditor asks for management</p> <p>13 representation letters?</p> <p>14 A. Okay. So you're asking me in my</p> <p>15 personal capacity, yes, I have a general</p> <p>16 understanding of why.</p> <p>17 Q. Can you give me the general</p> <p>18 understanding that you have as to why</p> <p>19 management representation letters are required?</p> <p>20 A. They are – they are required to –</p> <p>21 they are – they are one of the items required</p> <p>22 in an audit to help verify completeness.</p> <p>23 Q. Do you have any – any other</p> <p>24 understanding as to why management</p> <p>25 representation letters are required?</p>

<p style="text-align: right;">Page 98</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. That is – that is – other than</p> <p>3 what I said, it is – it is – it is required</p> <p>4 so – to ensure that the – you know, there</p> <p>5 is – there is completeness in what is being</p> <p>6 audited.</p> <p>7 Q. Did you – did you have a practice</p> <p>8 whereby you and Mr. Dondero conferred about the</p> <p>9 management representation letters before you</p> <p>10 signed them?</p> <p>11 A. No.</p> <p>12 Q. Did you have a practice –</p> <p>13 withdrawn.</p> <p>14 Do you see just the next sentence</p> <p>15 after the materiality, there is a sentence that</p> <p>16 states: We confirm, to the best of our</p> <p>17 knowledge and belief, as of June 3rd, 2019, the</p> <p>18 date of your report, the following</p> <p>19 representations made to you during your audit.</p> <p>20 Do you see that sentence?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Did you understand when you</p> <p>23 signed this letter that you were confirming the</p> <p>24 representations that followed?</p> <p>25 A. When I signed this management</p>	<p style="text-align: right;">Page 99</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 letter – representation letter, yes.</p> <p>3 Q. Okay. Did you discuss this letter</p> <p>4 with Mr. Dondero before you signed it?</p> <p>5 A. I don't recall.</p> <p>6 Q. Do you recall if Mr. Dondero asked</p> <p>7 you any questions before he signed the letter?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall if you asked</p> <p>10 Mr. Dondero any questions before you signed</p> <p>11 this letter?</p> <p>12 A. I don't recall.</p> <p>13 Q. Is it fair to say that Mr. Dondero</p> <p>14 did not disclose to you the existence of the</p> <p>15 agreement that we have – as we've defined that</p> <p>16 term prior to the time you signed this letter?</p> <p>17 MS. DANDENEAU: Objection to form.</p> <p>18 A. I don't think I understand the</p> <p>19 question. So, again, you are saying, did</p> <p>20 Mr. Dondero not disclose to me the existence of</p> <p>21 this letter?</p> <p>22 Q. No, I apologize.</p> <p>23 Did Mr. Dondero disclose to you the</p> <p>24 existence of the agreement prior to the time</p> <p>25 you signed this letter on June 3rd, 2019?</p>
<p style="text-align: right;">Page 100</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. The agreement – the agreement that</p> <p>3 we talked about earlier?</p> <p>4 Q. Correct.</p> <p>5 A. Look, as I said earlier, the first</p> <p>6 time I heard of this agreement was sometime</p> <p>7 this year.</p> <p>8 Q. Okay. Can we turn – let's just</p> <p>9 look at a couple of items on the list. If we</p> <p>10 can go to page 33416. Do you see in Number 35</p> <p>11 it talks about the proper recording or</p> <p>12 disclosure in the financial statements of ND</p> <p>13 relationships and transactions with related</p> <p>14 parties.</p> <p>15 Do you see that?</p> <p>16 A. I do.</p> <p>17 Q. As the CFO, do you have any</p> <p>18 understanding as to whether Dugaboy is a</p> <p>19 related party?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know whether any of the</p> <p>22 affiliates are related parties?</p> <p>23 A. If – if it was NexPoint, HCMFA,</p> <p>24 HCMS, HCRE, yeah, if – if that is the</p> <p>25 affiliate definition, and there. In ASC 850 –</p>	<p style="text-align: right;">Page 101</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 again, I mean, I haven't looked at ASC 850 in</p> <p>3 quite some time, but, you know, if – if there</p> <p>4 is a control language, you know, ASC 850, would</p> <p>5 that – that section in GAAP would – would</p> <p>6 pick up and define what are related parties.</p> <p>7 So, you know, like I said, if – one</p> <p>8 of the four entities I just described, if – if</p> <p>9 they are in that control definition of ASC 850,</p> <p>10 they would be picked up in 35D.</p> <p>11 Q. Do you – do you have any reason to</p> <p>12 believe that they would be picked up in that</p> <p>13 definition, based on your knowledge and</p> <p>14 experience?</p> <p>15 A. I – I believe that entities</p> <p>16 controlled under GAAP are – are affiliates.</p> <p>17 Q. Okay. Would Mr. Dondero also</p> <p>18 qualify as a related party for purposes of</p> <p>19 Section 35D, to the best of your knowledge?</p> <p>20 A. Yeah, I don't – I don't know. I</p> <p>21 would think – I would have to read the code</p> <p>22 section to see if someone personally – is it</p> <p>23 talking about related parties. So, look, if</p> <p>24 your own in control, yeah, I mean, I would have</p> <p>25 to read the section.</p>

<p style="text-align: right;">Page 102</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. To the best of your knowledge, was</p> <p>3 the existence of the agreement ever disclosed</p> <p>4 to PwC?</p> <p>5 A. I'm not – I'm not aware.</p> <p>6 Q. Do you recall if the agreement was</p> <p>7 ever disclosed in Highland's audited financial</p> <p>8 statements?</p> <p>9 A. I don't – I don't remember if it</p> <p>10 was in every Highland's audited financial</p> <p>11 statements during my tenure. We would have to</p> <p>12 read the financial statements to see what was</p> <p>13 disclosed, but I'm not – I mean, as I sit here</p> <p>14 today, I'm not aware.</p> <p>15 Q. That is all I'm asking for.</p> <p>16 A. I'm not aware.</p> <p>17 Q. Can we go to the next page, please,</p> <p>18 and look at 36. 36 says, we have disclosed to</p> <p>19 you the identity of the partnership's related</p> <p>20 party relationships and all the related party</p> <p>21 relationships and transactions of which we are</p> <p>22 aware.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. To the best of your knowledge, as of</p>	<p style="text-align: right;">Page 103</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 June 3rd, 2019, did Highland disclose to PwC</p> <p>3 the identity of the partnership's related</p> <p>4 parties and all the related party relationships</p> <p>5 and transactions of which it was aware?</p> <p>6 A. I mean, I can speak for myself as</p> <p>7 signer of this representation letter. I</p> <p>8 disclosed what – what, you know, what –</p> <p>9 what – what I knew. Sorry, look, yes, so I –</p> <p>10 I disclosed what I knew.</p> <p>11 Q. Okay. Can we go to page 419. Do</p> <p>12 you see at the end there is a reference to</p> <p>13 events that occurred since the end of the</p> <p>14 fiscal year and the date of the letter?</p> <p>15 A. Yes.</p> <p>16 Q. And were you aware of that – of</p> <p>17 that provision of the management representation</p> <p>18 letter before you signed the document?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have an understanding as to</p> <p>21 why PwC asked for that confirmation of that</p> <p>22 particular part of the management</p> <p>23 representation letter?</p> <p>24 A. It is – it is – it is just – it</p> <p>25 is a typical audit request.</p>
<p style="text-align: right;">Page 104</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And do you understand – do you have</p> <p>3 an understanding that PwC wanted to know that</p> <p>4 as of the date of the audit whether any</p> <p>5 material changes had occurred since the end of</p> <p>6 the fiscal year, using the definition of</p> <p>7 materiality that is in this particular</p> <p>8 management representation letter?</p> <p>9 A. It – it is – it is – it is a –</p> <p>10 it is as described. It is just a poorly worded</p> <p>11 question, so it is hard for me to say yes.</p> <p>12 Q. If I asked you this, I apologize,</p> <p>13 but did you ever learn when the agreement was</p> <p>14 entered into?</p> <p>15 A. I don't – I don't – like I said</p> <p>16 before, I don't know or have any details of the</p> <p>17 agreement.</p> <p>18 Q. Okay. Did you ever ask anybody when</p> <p>19 the agreement was entered into?</p> <p>20 A. I did not.</p> <p>21 Q. Let's look at the audited financial</p> <p>22 statements. We will put up on the screen a</p> <p>23 document that has been premarked as Exhibit 34.</p> <p>24 (Exhibit 34 marked.)</p> <p>25 MS. DANDENEAU: And again, if Ms. La</p>	<p style="text-align: right;">Page 105</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Canty could please put that in the chat</p> <p>3 room, that would be great.</p> <p>4 MR. MORRIS: I will assure you we</p> <p>5 will put every document in the chat room.</p> <p>6 Q. Now, I'm just going to ask you</p> <p>7 questions that are related to the provisions of</p> <p>8 this report that concern the affiliate loans,</p> <p>9 but again, Mr. Waterhouse, if there is any part</p> <p>10 of the document that you need to see or that</p> <p>11 you think you might need to see in order to</p> <p>12 refresh your recollection to answer any of my</p> <p>13 questions, will you let me know that?</p> <p>14 A. Yes.</p> <p>15 Q. Because this is a pretty lengthy</p> <p>16 document, but do you see that the cover page</p> <p>17 here is the Highland consolidated financial</p> <p>18 statements for the period ending December 31st,</p> <p>19 2018?</p> <p>20 A. Yes.</p> <p>21 Q. If we can go to – I think it is the</p> <p>22 next one, looking for PwC's signature line.</p> <p>23 MS. CANTY: I'm sorry, John, did you</p> <p>24 say something?</p> <p>25 MR. MORRIS: Yes, can we turn the</p>

<p style="text-align: right;">Page 106</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 page. I think it is 215. Yes, stop right</p> <p>3 there, just above – I'm sorry, I want to</p> <p>4 see just the date of the report.</p> <p>5 Q. Okay. Do you see at the bottom of</p> <p>6 that page there, Mr. Waterhouse,</p> <p>7 PricewaterhouseCoopers has signed this audit</p> <p>8 report?</p> <p>9 A. Yes, I see their signature.</p> <p>10 Q. Okay. And it is the dated same day</p> <p>11 as your management representation letter; is</p> <p>12 that right?</p> <p>13 A. It is – yes, it is the same day.</p> <p>14 Q. Was that the practice to sign the</p> <p>15 management representation letter on the same</p> <p>16 day that the audit report was signed?</p> <p>17 A. Yes, that is typical in every audit.</p> <p>18 Q. Can we just scroll down to the</p> <p>19 balance sheet on the next page.</p> <p>20 Do you see that there is a line</p> <p>21 there that says, Notes and Other Amounts Due</p> <p>22 from Affiliates?</p> <p>23 A. Yes.</p> <p>24 Q. Does that line, to the best of your</p> <p>25 knowledge, include the amounts that were due</p>	<p style="text-align: right;">Page 107</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 under the affiliate under the notes signed by</p> <p>3 the affiliates and Mr. Dondero?</p> <p>4 MR. RUKAVINA: Objection to the</p> <p>5 extent that calls for a legal conclusion.</p> <p>6 A. I mean, I would want to see the</p> <p>7 detail and the build to this \$173,398,000, but,</p> <p>8 yes, I mean, if – if – given what we</p> <p>9 discussed before, you know, it – it should</p> <p>10 capture that.</p> <p>11 Q. And – and while you were the CFO of</p> <p>12 Highland, were all notes held by Highland that</p> <p>13 were issued by an affiliate or Mr. Dondero</p> <p>14 carried as assets on Highland's balance sheets?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 MS. DEITSCH-PEREZ: Object to form.</p> <p>17 A. I don't – I don't know how else</p> <p>18 they would be carried.</p> <p>19 Q. Okay. Can you think of any – are</p> <p>20 you aware of any promissory note issued by an</p> <p>21 affiliate or Mr. Dondero that was not carried</p> <p>22 on Highland's audited financial balance sheets?</p> <p>23 A. I'm – I'm – I'm not aware.</p> <p>24 Q. Okay. Are you aware of any category</p> <p>25 of asset on Highland's balance sheet in which</p>
<p style="text-align: right;">Page 108</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 any of the promissory notes issued by an</p> <p>3 affiliate or Mr. Dondero would have been</p> <p>4 included?</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 A. Sorry, am I aware of any asset of an</p> <p>7 affiliate being included –</p> <p>8 Q. That – let me – let me try again.</p> <p>9 Do you see there is a number of</p> <p>10 different assets that are described on this</p> <p>11 balance sheet?</p> <p>12 A. Yes.</p> <p>13 Q. One of the assets that is described</p> <p>14 is Notes and Other Amounts Due from Affiliates;</p> <p>15 right?</p> <p>16 A. Yes.</p> <p>17 Q. And it is reasonable to conclude</p> <p>18 that the notes from the affiliates and</p> <p>19 Mr. Dondero are included in that line item;</p> <p>20 right?</p> <p>21 A. Yes, based on this description.</p> <p>22 Again, I would want to see a build of this to</p> <p>23 100 percent confirm, but based on the</p> <p>24 description, the asset description, it is – it</p> <p>25 is likely.</p>	<p style="text-align: right;">Page 109</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Now, does that mean absolute? I</p> <p>3 don't know.</p> <p>4 Q. Do you have any reason to believe</p> <p>5 that the promissory notes would have been</p> <p>6 carried on the balance sheet in a category</p> <p>7 other than Notes and Other Amounts Due from</p> <p>8 Affiliates?</p> <p>9 A. If they were deemed – no. If they</p> <p>10 were deemed an affiliate, you know, under GAAP,</p> <p>11 they should be carried in that line.</p> <p>12 Otherwise, it would go into another line.</p> <p>13 Q. Okay. And do you see the total</p> <p>14 asset base as of December 31st, 2018, was</p> <p>15 approximately \$1.04 billion?</p> <p>16 A. Yes.</p> <p>17 Q. Is my math correct that the Notes</p> <p>18 and Other Amounts Due from Affiliates</p> <p>19 constituted approximately 17 percent of</p> <p>20 Highland's assets as of the end of 2018?</p> <p>21 A. Well, so how are you defining</p> <p>22 Highland?</p> <p>23 Q. Highland Capital Management, L.P.,</p> <p>24 the entity that this audit is subject to – or</p> <p>25 the subject of.</p>

<p style="text-align: right;">Page 110</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. On a consolidated or unconsolidated</p> <p>3 basis?</p> <p>4 Q. I'm looking at the balance sheet.</p> <p>5 It is a consolidated balance sheet. Okay?</p> <p>6 Does the Notes and Other Amounts Due</p> <p>7 from Affiliates constitute approximately</p> <p>8 17 percent of the total assets of Highland</p> <p>9 Capital Management, L.P., on a consolidated</p> <p>10 basis?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. I don't have a calculator in front</p> <p>13 of me but I will take your math, if you are</p> <p>14 taking the 173 divided by the billion.</p> <p>15 Q. Okay.</p> <p>16 A. If that is accurate, yes. But,</p> <p>17 again, on a consolidated basis.</p> <p>18 Q. And on an unconsolidated basis the</p> <p>19 percentage would be higher; correct?</p> <p>20 A. I – no. I don't know.</p> <p>21 Q. Well, okay. That is fair.</p> <p>22 MR. MORRIS: Can we turn to</p> <p>23 page 241, please.</p> <p>24 Q. Do you see that this is a section of</p> <p>25 the audit report that is entitled Notes and</p>	<p style="text-align: right;">Page 111</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Other Amounts Due from Affiliates?</p> <p>3 A. Sorry, I can't see the – the –</p> <p>4 Q. It is at the top.</p> <p>5 A. Notes and Other Amounts Due from</p> <p>6 Affiliates, yes, I see that. I don't – I</p> <p>7 don't have a page number, but I'm on a page</p> <p>8 that says at the top: Notes and Other Amounts</p> <p>9 Due from Affiliates.</p> <p>10 Q. Okay. And that is the same title of</p> <p>11 the line item on the balance sheet that we just</p> <p>12 looked at; right? Notes and Other Amounts Due</p> <p>13 from Affiliates?</p> <p>14 A. Yes.</p> <p>15 Q. And is it your understanding, based</p> <p>16 on your experience and knowledge as the CFO,</p> <p>17 that this is the section of the narrative that</p> <p>18 ties into the line item that we just looked at?</p> <p>19 A. Yes.</p> <p>20 Q. And is this section of the audit</p> <p>21 report intended to describe and disclose all of</p> <p>22 the material facts concerning the Notes and</p> <p>23 Other Amounts Due from Affiliates?</p> <p>24 MS. DANDENEAU: Objection, form.</p> <p>25 A. This – these notes – these notes</p>
<p style="text-align: right;">Page 112</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the financial statements are – the purpose</p> <p>3 is to disclose any material items in relation</p> <p>4 to that balance sheet line item.</p> <p>5 Q. Okay. And all of the information,</p> <p>6 to the best of your knowledge, that is set</p> <p>7 forth in this section of the audit report was</p> <p>8 provided by Highland; correct?</p> <p>9 A. Yes, it would have been provided by</p> <p>10 the corporate accounting team.</p> <p>11 Q. Okay. And the corporate accounting</p> <p>12 team, did that team report to you in the</p> <p>13 organizational structure?</p> <p>14 A. Yes.</p> <p>15 Q. And did you have any concerns about</p> <p>16 the controls that were in place to make sure</p> <p>17 that the information provided with respect to</p> <p>18 Notes and Other Amounts Due from Affiliates was</p> <p>19 accurate and complete?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. Not that I recall.</p> <p>22 Q. Okay. Do you recall ever being</p> <p>23 concerned that any portion of the Notes and</p> <p>24 Other Amounts Due from Affiliates in any audit</p> <p>25 report was inaccurate, incomplete, or not</p>	<p style="text-align: right;">Page 113</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 reliable?</p> <p>3 A. I didn't – I had concerns about,</p> <p>4 you know, like I talked about before, of there</p> <p>5 were – there were potentially issues in the</p> <p>6 control environment. But as far as it relates</p> <p>7 to the audited financial statements, any – the</p> <p>8 team would work with the auditors to disclose</p> <p>9 all – all notes in Highland's possession.</p> <p>10 And any – any notes that were</p> <p>11 deemed material by the auditor, right, these</p> <p>12 were disclosed in these – in this section, you</p> <p>13 know, in – in the notes to the consolidated</p> <p>14 financial statements as you presented.</p> <p>15 Q. Do you recall ever having a</p> <p>16 conversation with anybody at any time</p> <p>17 concerning the accuracy of the section of audit</p> <p>18 reports that relates to Notes and Other Amounts</p> <p>19 Due from Affiliates?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. You know, as – as – I didn't have</p> <p>22 direct conversations with</p> <p>23 PricewaterhouseCoopers as I had, you know –</p> <p>24 I – I had the team that managed this.</p> <p>25 Again, I wasn't anywhere chose to</p>

<p style="text-align: right;">Page 114</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 being the point person of this audit. And I</p> <p>3 can't recall, you know, when -- you know, I</p> <p>4 don't even know if I was ever the point person</p> <p>5 during my tenure as CFO.</p> <p>6 I don't know if PwC had any concerns</p> <p>7 when they were performing those audit</p> <p>8 procedures. They may have and they may have --</p> <p>9 and it may not have been communicated to me. I</p> <p>10 don't know.</p> <p>11 MR. MORRIS: All right. I move to</p> <p>12 strike.</p> <p>13 Q. And I'm going to ask you to listen</p> <p>14 carefully to my question.</p> <p>15 Did you -- do you recall ever having</p> <p>16 a conversation with anybody at any time</p> <p>17 concerning the accuracy of the reporting</p> <p>18 provided in the audited financial statement on</p> <p>19 the topic of Notes and Other Amounts Due?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. I don't recall for this, but that</p> <p>22 doesn't mean that it didn't exist.</p> <p>23 Q. Okay. But you have no reason to</p> <p>24 believe, as you sit here right now, that you</p> <p>25 ever discussed with anybody concerns over the</p>	<p style="text-align: right;">Page 115</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 accuracy of the section of the audit reports</p> <p>3 called Notes and Other Amounts Due from</p> <p>4 Affiliates; correct?</p> <p>5 MS. DANDENEAU: Object to the form.</p> <p>6 MS. DEITSCH-PEREZ: Objection to</p> <p>7 form.</p> <p>8 A. I don't recall having any</p> <p>9 conversations. But, again, I mean, this is --</p> <p>10 this is two years ago.</p> <p>11 Q. I'm just asking for your</p> <p>12 recollection, sir.</p> <p>13 A. Yes.</p> <p>14 Q. If you don't recall, this will --</p> <p>15 A. Yeah.</p> <p>16 Q. (Overspeak) -- if you don't</p> <p>17 recall --</p> <p>18 A. Yeah, I don't -- I don't recall.</p> <p>19 Q. Do you know who was responsible for</p> <p>20 drafting the audit report?</p> <p>21 A. Are you asking the actual Highland</p> <p>22 employee responsible? I mean, it was</p> <p>23 Highland's responsibility, so, I mean, that</p> <p>24 is --</p> <p>25 Q. Right.</p>
<p style="text-align: right;">Page 116</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. -- Highland's responsibility.</p> <p>3 Highland's responsibility.</p> <p>4 Q. Who, at Highland, was responsible</p> <p>5 for drafting this section of the audit report?</p> <p>6 A. I -- I don't know the answer to</p> <p>7 that. Again, there was a team who worked on</p> <p>8 this. And I don't know, you know, whether it</p> <p>9 was the staff or the manager.</p> <p>10 Again, this is where I let the teams</p> <p>11 manage. And, you know, there may be a</p> <p>12 corporate accountant who worked on this. I</p> <p>13 just -- you know, I wasn't part of that process</p> <p>14 to give that person experience. I don't know.</p> <p>15 Q. Do you recall having any</p> <p>16 communications with anybody at any time</p> <p>17 concerning this section of the report?</p> <p>18 A. Yeah, I don't recall.</p> <p>19 Q. Do you recall whether you ever told</p> <p>20 anybody at any time that any aspect of this</p> <p>21 section of the report was inaccurate or</p> <p>22 incomplete?</p> <p>23 A. I don't recall.</p> <p>24 Q. As you sit here today, do you have</p> <p>25 any reason to believe that this section of the</p>	<p style="text-align: right;">Page 117</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 audit report is incomplete or inaccurate in any</p> <p>3 way?</p> <p>4 And I'm happy to give you a moment</p> <p>5 to -- to look at it, if you would like.</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 MS. DEITSCH-PEREZ: Same.</p> <p>8 A. I mean, I would have to look at -- I</p> <p>9 would have to look at the bill to the note</p> <p>10 schedule to make sure I know you presented me</p> <p>11 with materiality, but again, there might be a</p> <p>12 note as of 12/31/18 that somehow was -- was</p> <p>13 under materiality not disclosed. I don't -- I</p> <p>14 don't know. I would need more information.</p> <p>15 Q. Okay. But without more information,</p> <p>16 you have no reason to believe anything this</p> <p>17 section is inaccurate; correct?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 A. I don't. I mean, you know, this was</p> <p>20 part of the audit.</p> <p>21 Q. Thank you. Now, you will see if we</p> <p>22 could scroll just a little bit more that each</p> <p>23 of the first five paragraphs concerns</p> <p>24 specifically the four affiliates that we've</p> <p>25 been discussing and Mr. Dondero.</p>

<p style="text-align: right;">Page 118</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. MORRIS: If we could go the</p> <p>3 other way, La Asia. We don't need Okada.</p> <p>4 We're going to have to thread the needle.</p> <p>5 Okay. Good, perfect.</p> <p>6 Q. Do you see those five paragraphs</p> <p>7 certain the four affiliates and Mr. Dondero as</p> <p>8 we've been referring to today?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And do you see at the end of</p> <p>11 every paragraph it states, quote: A fair value</p> <p>12 of a partnership's outstanding notes receivable</p> <p>13 approximates the carrying value of the notes</p> <p>14 receivable?</p> <p>15 A. Yes, I see that.</p> <p>16 Q. Do you have an understanding of what</p> <p>17 that means?</p> <p>18 A. Yes.</p> <p>19 Q. What is your understanding of that</p> <p>20 sentence?</p> <p>21 A. It is the -- again, the -- the fair</p> <p>22 value, right, which is -- which is what the --</p> <p>23 what Highland could sell that asset for. This</p> <p>24 statement is comparing the fair value of the</p> <p>25 notes to the carrying value, so the carrying</p>	<p style="text-align: right;">Page 119</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 value is the line item that you showed me</p> <p>3 earlier that is in Notes and Other Amounts Due</p> <p>4 from Affiliates.</p> <p>5 Q. Okay. Is another way to say this is</p> <p>6 that the fair market value of the notes equals</p> <p>7 the principal amount and -- withdrawn.</p> <p>8 Is the fair way to interpret this</p> <p>9 that the fair market value of the notes equals</p> <p>10 all remaining unpaid principal and interest due</p> <p>11 under the notes?</p> <p>12 MS. DANDENEAU: Object to the form.</p> <p>13 MS. DEITSCH-PEREZ: Objection, form.</p> <p>14 A. I don't know the answer to that,</p> <p>15 because I don't recall where -- where any --</p> <p>16 where -- in what line item was the interest</p> <p>17 component reported.</p> <p>18 Q. All right. Well, if we look in this</p> <p>19 audit report, you will see in the middle of the</p> <p>20 first paragraph, for example, it states that as</p> <p>21 of December 31st, 2018, total interest and</p> <p>22 principal due on outstanding promissory notes</p> <p>23 was approximately \$5.3 million.</p> <p>24 Do you see that?</p> <p>25 A. I do.</p>
<p style="text-align: right;">Page 120</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Is that the carrying value or the</p> <p>3 fair value?</p> <p>4 A. That would be the carrying value --</p> <p>5 Q. And is the last --</p> <p>6 A. -- in my opinion.</p> <p>7 Q. Okay. And it is in your opinion as</p> <p>8 the chief financial officer of Highland during</p> <p>9 the period of time that you described; right?</p> <p>10 It is an educated opinion?</p> <p>11 A. I'm reading this at face value. I'm</p> <p>12 taking that as that is carrying value.</p> <p>13 Q. Okay. And does the last sentence</p> <p>14 say that the carrying value is roughly</p> <p>15 approximate to the fair market value?</p> <p>16 MS. DANDENEAU: Objection to form.</p> <p>17 MS. DEITSCH-PEREZ: Objection, form.</p> <p>18 A. Again, this note to the financial</p> <p>19 statement is specific to notes and other</p> <p>20 amounts due from affiliates.</p> <p>21 Q. Correct.</p> <p>22 A. If the interest component is</p> <p>23 reported elsewhere on the balance sheet, you</p> <p>24 know, it -- it -- it could be off. Again, I</p> <p>25 don't have the detail. I don't know, but yes,</p>	<p style="text-align: right;">Page 121</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 look, I mean, if you -- I mean, if you are</p> <p>3 saying the 5.3 million is in the notes and</p> <p>4 other amounts due from affiliates, then the</p> <p>5 last statement is saying the fair value</p> <p>6 approximates 5.3 million. That is what that</p> <p>7 last sentence is saying.</p> <p>8 Q. Do you see in the middle of the</p> <p>9 first paragraph -- not in the middle, the next</p> <p>10 to last sentence there is a statement that the</p> <p>11 partnership will not demand payment on amounts</p> <p>12 that exceed HCMFA's excess cash availability</p> <p>13 prior to May 31st, 2021.</p> <p>14 Do you see that?</p> <p>15 A. I do.</p> <p>16 Q. Do you know when Highland agreed not</p> <p>17 to demand payment as described in that</p> <p>18 sentence?</p> <p>19 A. I don't know specifically.</p> <p>20 Q. Do you know why Highland agreed not</p> <p>21 to demand payment on HCMFA's notes until May</p> <p>22 2021?</p> <p>23 A. Yes.</p> <p>24 Q. Why was that decision made?</p> <p>25 A. You know, well, it -- it -- that</p>

<p style="text-align: right;">Page 122</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 decision was made as to not put HCMFA into a</p> <p>3 position where it didn't have sufficient assets</p> <p>4 to pay for the demand note.</p> <p>5 Q. And at the time the agreement was</p> <p>6 entered into, pursuant to which the partnership</p> <p>7 wouldn't demand payment, did HCMFA have</p> <p>8 insufficient assets to satisfy the notes if a</p> <p>9 demand had been made?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. I don't have HCMFA's financial</p> <p>12 statements in front of me as of 12/31/18.</p> <p>13 Q. Was there a concern that HCMFA would</p> <p>14 be unable to satisfy its demands under the</p> <p>15 notes if demand was made?</p> <p>16 MS. DANDENEAU: Objection to form.</p> <p>17 A. Well, there is – I don't recall –</p> <p>18 I mean, there is something, right, in place to</p> <p>19 basically not demand payment until May 31, 2021</p> <p>20 as detailed here.</p> <p>21 Q. And who made the decision to enter</p> <p>22 into – who made the decision on behalf of</p> <p>23 Highland not to demand payment until May 31st,</p> <p>24 2021?</p> <p>25 A. I'm trying to remember. I don't</p>	<p style="text-align: right;">Page 123</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 remember exactly – I don't remember if it was</p> <p>3 myself or – or Jim Dondero who – who – there</p> <p>4 was – there was something signed, from what I</p> <p>5 recall, that – that – that backed up this</p> <p>6 line item in the – in the notes I'm – look,</p> <p>7 I'm, I'm –</p> <p>8 Q. We will get to that.</p> <p>9 A. You –</p> <p>10 Q. I'm just –</p> <p>11 A. You have – I mean –</p> <p>12 Q. We're going to give that to you.</p> <p>13 I'm going to give that to you.</p> <p>14 A. You – you – you have all the</p> <p>15 documents. I don't have the documents, and</p> <p>16 that is what makes it so hard. I don't have</p> <p>17 any documents to prepare for this deposition;</p> <p>18 right? You have all – I don't – I don't – I</p> <p>19 don't remember, but, you know, again, it would</p> <p>20 probably be myself or Jim.</p> <p>21 Q. Do you know if Highland received</p> <p>22 anything in return for its agreement not to</p> <p>23 make a demand for two years?</p> <p>24 A. I don't – I don't think it referred</p> <p>25 anything.</p>
<p style="text-align: right;">Page 124</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And did you and Mr. Dondero discuss</p> <p>3 HCMFA's ability to satisfy the notes if a</p> <p>4 demand was made at the time this agreement was</p> <p>5 entered into?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 A. I don't – I don't – I don't recall</p> <p>8 having a specific conversation, if I did, or –</p> <p>9 or David Klos.</p> <p>10 Q. Okay. I'm just asking if you recall</p> <p>11 any conversations that you had.</p> <p>12 A. I don't recall.</p> <p>13 Q. Okay. Do you know why Highland</p> <p>14 loaned the money to HCMFA that is the subject</p> <p>15 of the notes described in this paragraph?</p> <p>16 A. I don't remember specifically why</p> <p>17 5.3 million was loaned. I mean, I – it would</p> <p>18 have to be put in the context.</p> <p>19 Q. Do you have any recollection at all</p> <p>20 as to why Highland ever loaned any money to</p> <p>21 HCMFA?</p> <p>22 A. Yes.</p> <p>23 MS. DANDENEAU: Objection to form.</p> <p>24 Q. What do you remember about that?</p> <p>25 A. There was a Highland Global</p>	<p style="text-align: right;">Page 125</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Allocation Fund, which was a – a fund managed</p> <p>3 by Highland Capital Management Fund Advisors.</p> <p>4 There was a – we – I'm just telling you,</p> <p>5 there was – there was – there was a – a</p> <p>6 ultimately a NAV error found in this fund while</p> <p>7 it was an open-ended fund and, you know, there</p> <p>8 were amounts owed by the advisor in – in</p> <p>9 relation to that NAV error.</p> <p>10 There were also, for the same fund,</p> <p>11 that same fund was ongoing an</p> <p>12 open-end-to-close-end conversion, and as part</p> <p>13 of that proposal, shareholders who voted for</p> <p>14 the conversion received compensation from the</p> <p>15 advisor.</p> <p>16 Q. All right. Now, the events that</p> <p>17 you're describing occurred in the spring of</p> <p>18 2019; right?</p> <p>19 A. These started back – I think, I</p> <p>20 mean –</p> <p>21 Q. I apologize.</p> <p>22 A. – that – I mean, the answer to</p> <p>23 that is no.</p> <p>24 Q. I apologize, the loans that were</p> <p>25 made in connection with the events that you're</p>

<p style="text-align: right;">Page 126</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 describing occurred in May 2019; right?</p> <p>3 MR. RUKAVINA: Objection to the</p> <p>4 extent that calls for a legal conclusion.</p> <p>5 A. I don't recall specifically what</p> <p>6 amounts of money were moved when, for what</p> <p>7 purpose.</p> <p>8 Q. Okay. Fair enough. Going to the</p> <p>9 next paragraph, do you recall that NexPoint</p> <p>10 Advisors had obtained a number of loans from</p> <p>11 Highland, and they rolled up those loans into</p> <p>12 one note in approximately 2017?</p> <p>13 A. This is for NexPoint Advisors?</p> <p>14 Q. Yes.</p> <p>15 A. I – I mean, I don't – I don't</p> <p>16 recall the NexPoint Advisors loan being a</p> <p>17 roll-up loan, but –</p> <p>18 Q. Do you know why?</p> <p>19 A. But, look, if you have documents</p> <p>20 that show – I mean, look, I just don't recall.</p> <p>21 Q. Okay. That is fair. Do you know</p> <p>22 why – do you have any recollection as to why</p> <p>23 Highland loaned money to NexPoint?</p> <p>24 A. Yes.</p> <p>25 Q. Why did High – why do you recall –</p>	<p style="text-align: right;">Page 127</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 what is the reason you recall Highland lending</p> <p>3 money to NexPoint?</p> <p>4 A. I mean, I was just – I just – I</p> <p>5 just recall. I mean, I just – I don't</p> <p>6 remember why.</p> <p>7 Q. I understand. And I'm asking you if</p> <p>8 you recall –</p> <p>9 A. Oh, why – I thought you say –</p> <p>10 NexPoint Advisors was launching a fund which</p> <p>11 is – I believe that the legal name is NexPoint</p> <p>12 Capital, Inc. And it – it provided a</p> <p>13 co-invest into that fund.</p> <p>14 And, from what I remember, the –</p> <p>15 the – that NexPoint borrowed money from</p> <p>16 Highland at the time to make that co-invest.</p> <p>17 Q. So this was an investment that</p> <p>18 NexPoint was required to make; is that right?</p> <p>19 MS. DANDENEAU: Objection to form.</p> <p>20 A. I don't know if it was required to</p> <p>21 make, I don't recall that, or if it just made</p> <p>22 it.</p> <p>23 Q. Okay. But your recollection is that</p> <p>24 NexPoint made an investment and they borrowed</p> <p>25 money from Highland to finance the investment.</p>
<p style="text-align: right;">Page 128</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Do I have that right?</p> <p>3 A. Yes.</p> <p>4 Q. How about HCRE? Do you know why</p> <p>5 HCRE borrowed money from Highland?</p> <p>6 A. I don't remember specifically.</p> <p>7 Q. Do you remember generally?</p> <p>8 A. Generally, yeah – I mean, yes.</p> <p>9 Q. Can you tell me your general</p> <p>10 recollection as to why Highland loaned money to</p> <p>11 HCRE?</p> <p>12 A. For – for – for investment</p> <p>13 purposes.</p> <p>14 Q. So HCRE made the investment and it</p> <p>15 obtained a loan, or loans, from Highland in</p> <p>16 order to finance that investment or those</p> <p>17 investments.</p> <p>18 Do I have that right?</p> <p>19 A. I mean, I – you know, generally.</p> <p>20 Q. Okay. How about Highland Management</p> <p>21 Services, Inc.?</p> <p>22 Do you have any recollection as to</p> <p>23 why HCMS borrowed money from Highland?</p> <p>24 A. Generally.</p> <p>25 Q. What is your general recollection as</p>	<p style="text-align: right;">Page 129</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to why HCMS borrowed money from Highland?</p> <p>3 A. For – for investment purposes.</p> <p>4 Q. So it is the same thing, HCMS wanted</p> <p>5 to make investments and it borrowed money from</p> <p>6 Highland in order to finance those investments;</p> <p>7 is that right?</p> <p>8 A. I mean, yes, generally. I mean, I</p> <p>9 can't – I don't – on the services, there –</p> <p>10 there are several loans in these schedules.</p> <p>11 You know, I can't remember why every single one</p> <p>12 of these were made, but I would say, yeah, I</p> <p>13 mean, generally.</p> <p>14 Q. Okay. I appreciate that.</p> <p>15 MR. MORRIS: Let's go to the page</p> <p>16 with Bates No. 251. La Asia, are you</p> <p>17 there?</p> <p>18 MS. CANTY: Sorry, John. It went</p> <p>19 out for a minute. Can you say that again.</p> <p>20 I don't know what is going on.</p> <p>21 MR. MORRIS: The page with Bates</p> <p>22 No. 251, can we go to that.</p> <p>23 MS. CANTY: Yes, sorry.</p> <p>24 MR. MORRIS: Keep going to the</p> <p>25 bottom. Yeah, there you go.</p>

<p style="text-align: right;">Page 130</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you see, Mr. Waterhouse, that</p> <p>3 there is a section there called Subsequent</p> <p>4 Events?</p> <p>5 A. I do.</p> <p>6 Q. And does this relate to the last</p> <p>7 sentence above the signature line on the</p> <p>8 management representation letter that we talked</p> <p>9 about earlier where you made the representation</p> <p>10 that you disclosed subsequent events?</p> <p>11 A. I mean, it relates to it, but not in</p> <p>12 its entirety.</p> <p>13 Q. Okay.</p> <p>14 MR. MORRIS: If we can scroll up to</p> <p>15 capture the entirety of this section right</p> <p>16 here.</p> <p>17 Q. And what do you mean by that, sir?</p> <p>18 MR. MORRIS: Yeah, right there.</p> <p>19 Perfect.</p> <p>20 A. There are -- there are different</p> <p>21 subsequent events in -- under GAAP. So there</p> <p>22 are -- and -- and -- so what we see in the</p> <p>23 notes to the financial statements are one type</p> <p>24 of subevent.</p> <p>25 Q. Okay. And -- and would the type of</p>	<p style="text-align: right;">Page 131</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 subsequent event relating to affiliate loans be</p> <p>3 captured in this section if they were -- if</p> <p>4 they were made after the end of the fiscal year</p> <p>5 and prior to the issuance of the audit report?</p> <p>6 A. Yes, if they were deemed material or</p> <p>7 disclosable.</p> <p>8 Q. Okay. I appreciate that.</p> <p>9 Do you see the next to the last</p> <p>10 entry there? It says, Over the course of 2019</p> <p>11 through the report date, HCMFA issued</p> <p>12 promissory notes to the partnership in the</p> <p>13 aggregate amount of \$7.4 million?</p> <p>14 A. Yes.</p> <p>15 Q. And does that refresh your</p> <p>16 recollection that those are the notes that</p> <p>17 related to the NAV error that you mentioned</p> <p>18 earlier?</p> <p>19 A. I don't -- I don't remember the</p> <p>20 exact. Again, there are -- I mentioned two</p> <p>21 line items; right?</p> <p>22 Q. Yes.</p> <p>23 A. I mean, it was the GAAP conversion</p> <p>24 process plus the -- the NAV error. I don't</p> <p>25 have the details. I don't recall specifically</p>
<p style="text-align: right;">Page 132</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 if -- you know, what -- if that 7.4 million was</p> <p>3 solely attributable to the NAV error.</p> <p>4 Q. Okay. But there is no question that</p> <p>5 Highland told PricewaterhouseCoopers that over</p> <p>6 the course of 2019 HCMFA issued promissory</p> <p>7 notes to the partnership in the aggregate</p> <p>8 amount of \$7.4 million; correct?</p> <p>9 A. In the course of the audit, we would</p> <p>10 have produced all promissory notes in our</p> <p>11 possession, including the ones that are</p> <p>12 detailed here.</p> <p>13 Q. Do you recall that you signed the</p> <p>14 two promissory notes that are referenced in</p> <p>15 that provision?</p> <p>16 MS. DANDENEAU: Objection to form.</p> <p>17 A. I didn't recall initially but I've</p> <p>18 been reminded.</p> <p>19 Q. Okay. And -- and do you recall that</p> <p>20 those notes are dated May 2nd and May 3rd,</p> <p>21 2019?</p> <p>22 A. Yes.</p> <p>23 Q. So that was just a month before the</p> <p>24 audit was completed; correct?</p> <p>25 A. Yes. I think we had a June 3rd</p>	<p style="text-align: right;">Page 133</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 date, right, if -- if my memory serves me</p> <p>3 right.</p> <p>4 Q. Yes, I will represent to you that</p> <p>5 your memory is accurate in that regard.</p> <p>6 Did anybody ever instruct you as the</p> <p>7 CFO to correct this statement that we're</p> <p>8 looking at in subsequent events?</p> <p>9 A. So let me understand. You're saying</p> <p>10 when I was CFO at Highland Capital did anyone</p> <p>11 ever ask me to correct the -- over the course</p> <p>12 of 2019 through the report date HCMFA issued</p> <p>13 promissory notes, this statement?</p> <p>14 Q. Right.</p> <p>15 A. Not that I'm aware.</p> <p>16 Q. While you were the CFO of Highland,</p> <p>17 did anybody ever tell you that that sentence</p> <p>18 was wrong?</p> <p>19 A. Not that I'm aware.</p> <p>20 Q. Highland -- withdrawn.</p> <p>21 HCMFA disclosed these notes in its</p> <p>22 own audited financial statements; right?</p> <p>23 MR. RUKAVINA: Objection, form.</p> <p>24 A. I assume that these would be</p> <p>25 material -- if these are material financial</p>

<p style="text-align: right;">Page 134</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 statements, yes, they – they – they should be</p> <p>3 and they were likely disclosed.</p> <p>4 Q. Now, there is no statement</p> <p>5 concerning the 2019 notes about the forbearance</p> <p>6 that we looked at in the affiliated note</p> <p>7 section of the report; right?</p> <p>8 MS. DANDENEAU: Objection to form.</p> <p>9 Q. I'll withdraw. That was bad.</p> <p>10 Do you recall when we were looking</p> <p>11 at the paragraph concerning HCMFA earlier it</p> <p>12 had that disclosure about the agreement whereby</p> <p>13 Highland wouldn't ask for demand on the – on</p> <p>14 the HCMFA notes?</p> <p>15 A. Yes.</p> <p>16 Q. That forbearance disclosure is not</p> <p>17 made with respect to the 2019 notes; right?</p> <p>18 A. Not – look, not that I can recall,</p> <p>19 unless – unless it was done at a subsequent</p> <p>20 day.</p> <p>21 Q. Right. And it is not in the</p> <p>22 subsequent event section that we're looking at</p> <p>23 right now where the 2019 notes are described;</p> <p>24 right?</p> <p>25 A. Right. But this is through</p>	<p style="text-align: right;">Page 135</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 June 3rd. It could have been done on June 4th.</p> <p>3 I don't – I don't – I don't recall.</p> <p>4 Q. Okay.</p> <p>5 MR. MORRIS: Can we put up on the</p> <p>6 screen the HCMFA audit report. And while</p> <p>7 we're –</p> <p>8 MS. DANDENEAU: What exhibit is</p> <p>9 this?</p> <p>10 MR. MORRIS: La Asia, what number is</p> <p>11 that?</p> <p>12 MS. CANTY: 45.</p> <p>13 MR. MORRIS: So this will be marked</p> <p>14 as Exhibit 45.</p> <p>15 (Exhibit 45 marked.)</p> <p>16 MS. CANTY: Yeah, and I will put it</p> <p>17 in the chat.</p> <p>18 MS. DANDENEAU: Thank you.</p> <p>19 Q. Okay. All right. Do you see that</p> <p>20 this is the consolidated financial statements</p> <p>21 for HCMFA for the period ending 12/31/18?</p> <p>22 A. Yes.</p> <p>23 Q. As the treasurer of HCMFA at the</p> <p>24 time, did you have to sign a management</p> <p>25 representation letter similar to the one that</p>
<p style="text-align: right;">Page 136</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 we looked at earlier for Highland?</p> <p>3 A. I would imagine I would have been</p> <p>4 asked to. I don't recall if I did.</p> <p>5 Q. Do you recall ever being asked by an</p> <p>6 auditor to sign a management representation</p> <p>7 letter and then not doing it?</p> <p>8 A. No.</p> <p>9 MR. MORRIS: Can we just scroll down</p> <p>10 again. I just want to see the date of the</p> <p>11 document.</p> <p>12 A. I mean, let me – you know, there</p> <p>13 are different versions to management</p> <p>14 representation letters I will qualify.</p> <p>15 Yes, there are certain – from time</p> <p>16 to time auditors can make representations</p> <p>17 that – in the rep letter that is being</p> <p>18 proposed that are inaccurate or out of scope or</p> <p>19 things like that and they've asked for</p> <p>20 signature.</p> <p>21 In that context, yes. I mean, you</p> <p>22 know – I mean, if I have been asked to sign</p> <p>23 and make those representations and those</p> <p>24 representations are invalid, yes, I would not,</p> <p>25 I mean, I – I wouldn't sign that.</p>	<p style="text-align: right;">Page 137</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. PricewaterhouseCoopers served</p> <p>3 as HCMFA's outside auditors as well; correct?</p> <p>4 A. Yes.</p> <p>5 Q. Do you see that this audit report is</p> <p>6 signed on June 3rd, 2019, just like the</p> <p>7 Highland audit report?</p> <p>8 A. That is correct.</p> <p>9 Q. And did the process of – of</p> <p>10 preparing HCMFA's audit report, was that the</p> <p>11 same process that Highland followed when it did</p> <p>12 its audit report at this time?</p> <p>13 A. I mean, it is a different entity.</p> <p>14 There are different assets. You know, it –</p> <p>15 it – it is – as you saw, Highland's</p> <p>16 financials are on a consolidated basis. This</p> <p>17 is different, so it is under the same control</p> <p>18 environment and team.</p> <p>19 Q. Okay. I appreciate that. So the</p> <p>20 same control environment and team participated</p> <p>21 in the preparation of the audit for Highland</p> <p>22 and for HCMFA at around the same time; correct?</p> <p>23 A. Yes.</p> <p>24 MR. MORRIS: Can we go to page 17 of</p> <p>25 the report. I don't have the Bates number.</p>

<p style="text-align: right;">Page 138</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Do you see that just like</p> <p>3 Highland's audited financial report, HCMFA's</p> <p>4 audited financial report also has a section</p> <p>5 related to subsequent events?</p> <p>6 A. Yes.</p> <p>7 Q. And am I reading this correctly that</p> <p>8 just as Highland had done, HCMFA disclosed in</p> <p>9 its audited financial report a subsequent event</p> <p>10 that related to the issuance of promissory</p> <p>11 notes to Highland in the aggregate amount of</p> <p>12 \$7.4 million in 2019?</p> <p>13 A. That is what I see in the report.</p> <p>14 Q. And you were the treasurer of HCMFA</p> <p>15 at the time; right?</p> <p>16 A. Yes, to the best of my knowledge.</p> <p>17 Q. And did anybody ever tell you prior</p> <p>18 to the time of the issuance of this audit</p> <p>19 report that that sentence relating to HCMFA's</p> <p>20 2019 notes was inaccurate or wrong in any way?</p> <p>21 A. Not that I recall.</p> <p>22 Q. As you sit here right now, has</p> <p>23 anybody ever told you that that sentence is</p> <p>24 inaccurate or wrong in any way?</p> <p>25 A. Not that I recall.</p>	<p style="text-align: right;">Page 139</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. I apologize if I asked you this</p> <p>3 already, but has anybody ever told you at any</p> <p>4 time that you are not authorized to sign the</p> <p>5 promissory notes that are the subject of the</p> <p>6 sentence we're looking at?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did anybody ever tell you at any</p> <p>9 time that you had made a mistake when you</p> <p>10 signed the promissory notes that are the</p> <p>11 subject of this sentence?</p> <p>12 A. Say that again. Did anyone ever say</p> <p>13 that I made a mistake?</p> <p>14 Q. Let me ask the question again.</p> <p>15 Did anybody ever tell you at any</p> <p>16 time that you made a mistake when you signed</p> <p>17 the two promissory notes in Highland's favor on</p> <p>18 behalf of HCMFA in 2019?</p> <p>19 A. Not that I recall.</p> <p>20 MR. MORRIS: Let's just look at the</p> <p>21 promissory notes quickly. Can we please</p> <p>22 put up Document Number 1, and so this is in</p> <p>23 the pile that y'all have. We'll just go</p> <p>24 for a few more minutes and we can take our</p> <p>25 lunch break.</p>
<p style="text-align: right;">Page 140</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. All right. So I don't know if you</p> <p>3 have seen this before, sir. Do you see that</p> <p>4 this is a complaint against HCMFA?</p> <p>5 A. Yes, I am looking at it on the</p> <p>6 screen.</p> <p>7 Q. Okay. And have you ever seen this</p> <p>8 document before?</p> <p>9 A. I went through some of these</p> <p>10 documents with my counsel here yesterday.</p> <p>11 MR. MORRIS: All right. Can we go</p> <p>12 to Exhibit 1 of this document.</p> <p>13 Q. Do you see Exhibit 1 is a</p> <p>14 \$2.4 million promissory note back in 2019?</p> <p>15 A. Yeah, I found it in the book. Yes,</p> <p>16 I have it here in front of me.</p> <p>17 Q. And this is a demand note, right, if</p> <p>18 you look at Paragraph 2?</p> <p>19 A. Yes.</p> <p>20 Q. And this is a note where the maker</p> <p>21 is HCMFA, and Highland is the payee; right?</p> <p>22 A. Yes.</p> <p>23 MR. MORRIS: And if we can scroll</p> <p>24 down, can we just see Mr. Waterhouse's</p> <p>25 signature.</p>	<p style="text-align: right;">Page 141</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Is that your signature, sir?</p> <p>3 A. Yes, it is.</p> <p>4 Q. And did you sign this document on or</p> <p>5 around May 2nd, 2019?</p> <p>6 A. I don't recall specifically signing</p> <p>7 this, but this is my signature.</p> <p>8 Q. Okay. And do you recall that</p> <p>9 Highland transferred \$2.4 million to HCMFA at</p> <p>10 or around the time you signed this document?</p> <p>11 A. I don't recall specifically. I</p> <p>12 would want to, as I sit here today, go back and</p> <p>13 confirm that, but again, presumably that --</p> <p>14 that -- that did happen.</p> <p>15 Q. You wouldn't have signed this</p> <p>16 document if you didn't believe that HCMFA</p> <p>17 either received or was going to receive</p> <p>18 \$2.4 million from Highland; is that fair?</p> <p>19 A. I mean, it -- if -- if -- if there</p> <p>20 wasn't a transfer of value, yeah, I mean, you</p> <p>21 know, I would have no reason to -- to sign a</p> <p>22 note.</p> <p>23 Q. And -- and Highland wouldn't have</p> <p>24 given this note to PricewaterhouseCoopers if --</p> <p>25 withdrawn.</p>

<p style="text-align: right;">Page 142</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 HCMFA wouldn't have given this note</p> <p>3 to PricewaterhouseCoopers if it hadn't received</p> <p>4 the principal value of -- of the note in the</p> <p>5 form of a loan; correct?</p> <p>6 MR. RUKAVINA: Objection, legal</p> <p>7 conclusion, speculation and form.</p> <p>8 A. Again, we -- what we provided to PwC</p> <p>9 were, as part of the audit, any promissory</p> <p>10 notes executed and outstanding. You know, as a</p> <p>11 part of the audit, they, you know, they -- they</p> <p>12 have copies of all the bank statements,</p> <p>13 things -- things of that sort.</p> <p>14 MR. MORRIS: Okay. Can we go to</p> <p>15 Exhibit 2.</p> <p>16 (Exhibit 2 marked.)</p> <p>17 Q. Do you see that this is a promissory</p> <p>18 note dated May 3rd, 2019 in the amount of</p> <p>19 \$5 million?</p> <p>20 A. Yes.</p> <p>21 Q. Do you believe this is also a demand</p> <p>22 note if you look at Paragraph 2?</p> <p>23 A. Yes.</p> <p>24 Q. And do you see that HCMFA is the</p> <p>25 maker, and Highland is the payee?</p>	<p style="text-align: right;">Page 143</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. And if we go to the bottom, can we</p> <p>4 just confirm that that is your signature?</p> <p>5 A. Yes.</p> <p>6 Q. And together these notes are the</p> <p>7 notes that are referred to both in Highland and</p> <p>8 HCMFA's audited financial reports in the</p> <p>9 subsequent event sections; correct?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. They -- they -- they totaled</p> <p>12 \$7.4 million, so presumably, yes.</p> <p>13 Q. Okay. And you were authorized to</p> <p>14 sign these two notes; correct?</p> <p>15 MR. RUKAVINA: Objection, legal</p> <p>16 conclusion.</p> <p>17 A. Yeah. I mean, I'm -- I was the</p> <p>18 officer of -- of HCMFA. You know, I -- I'm not</p> <p>19 the legal expert on -- on what that -- what</p> <p>20 that confers to me or what it doesn't. I mean,</p> <p>21 that is my signature on the notes.</p> <p>22 Q. And you believed you were authorized</p> <p>23 to sign the notes; is that fair?</p> <p>24 A. I signed a lot of documents in my</p> <p>25 capacity, just because it is operational in</p>
<p style="text-align: right;">Page 144</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 nature. So, you know, to me this was just</p> <p>3 another document, to be perfectly honest.</p> <p>4 Q. Sir, would you have signed</p> <p>5 promissory notes with the principal amount of</p> <p>6 \$7.4 million if you didn't believe you were</p> <p>7 authorized to do so?</p> <p>8 MS. DANDENEAU: Objection to form.</p> <p>9 Q. Are you frozen?</p> <p>10 A. No. I'm just -- you know, it is --</p> <p>11 you know, again, I typically don't sign</p> <p>12 promissory notes, and I don't recall why I</p> <p>13 signed these, but -- you know, but I did.</p> <p>14 Q. All right. So listen carefully to</p> <p>15 my question. Would you have ever signed</p> <p>16 promissory notes with a face amount of</p> <p>17 \$7.4 million without believing that you were</p> <p>18 authorized to do so?</p> <p>19 A. No. I mean, I'm -- I'm putting my</p> <p>20 signature on there, so no.</p> <p>21 Q. Okay. And would you have signed two</p> <p>22 promissory notes obligating HCMFA to pay</p> <p>23 Highland \$7.4 million without Mr. Dondero's</p> <p>24 prior knowledge and approval?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p style="text-align: right;">Page 145</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 form.</p> <p>3 A. You know, from -- from what I recall</p> <p>4 around these notes, you know, I don't recall</p> <p>5 specifically Mr. -- Mr. Dondero saying to -- to</p> <p>6 make this a loan.</p> <p>7 So my conversation with Mr. Dondero</p> <p>8 around the culmination of the NAV error as</p> <p>9 related to TerreStar which was a -- a -- I</p> <p>10 think it was a year and a half process. I</p> <p>11 don't know, it was a multi-month process, very</p> <p>12 laborious, very difficult.</p> <p>13 When we got to the end, I had a</p> <p>14 conversation with Mr. Dondero on where to, you</p> <p>15 know, basically get the funds to reimburse the</p> <p>16 fund, and I recall him saying, get the money</p> <p>17 from Highland.</p> <p>18 Q. And so he told you to get the money</p> <p>19 from Highland; is that right?</p> <p>20 A. That is what I recall -- in my</p> <p>21 conversation with him, that is -- that is what</p> <p>22 I can recall.</p> <p>23 Q. Do you know who drafted these notes?</p> <p>24 A. I don't.</p> <p>25 Q. Did you ask somebody to draft the</p>

<p style="text-align: right;">Page 146</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 notes?</p> <p>3 A. I didn't ask – I don't specifically</p> <p>4 ask people to draft notes really. I mean,</p> <p>5 again, you know, the legal group at Highland is</p> <p>6 responsible and has always been responsible for</p> <p>7 drafting promissory notes.</p> <p>8 Q. So based on your – based on the</p> <p>9 practice, you believe that somebody from the</p> <p>10 Highland's legal department would have drafted</p> <p>11 these notes. Do I have that right?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form. John, I also asked you for the Word</p> <p>14 versions of these notes so we could look at</p> <p>15 the properties, and you have not provided</p> <p>16 them. Are you intending to?</p> <p>17 MR. MORRIS: No.</p> <p>18 Q. Can you answer my question, sir?</p> <p>19 A. Again, I –</p> <p>20 MS. DANDENEAU: Do you want him to</p> <p>21 repeat it?</p> <p>22 A. Yeah, why don't you repeat it?</p> <p>23 Q. Sure. Mr. Waterhouse, based on the</p> <p>24 practice that you have described in your</p> <p>25 understanding, do you believe that these notes</p>	<p style="text-align: right;">Page 147</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 would have been drafted by somebody in the</p> <p>3 legal department?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And do you know who would</p> <p>8 have instructed – do you have any knowledge as</p> <p>9 to who would have instructed the legal</p> <p>10 department to draft these notes?</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 A. It was whoever was working – I</p> <p>14 mean, it was likely someone on the team. I</p> <p>15 mean, I don't remember exactly on every note or</p> <p>16 every document, but, again, a lot of these</p> <p>17 things of this nature – they're operational in</p> <p>18 nature – were handled by the team.</p> <p>19 The team knows to – I mean, we</p> <p>20 don't draft documents. We're not lawyers.</p> <p>21 We're not attorneys. It is not what I do or</p> <p>22 accountants do.</p> <p>23 So they are always instructed to go</p> <p>24 and – and go to the legal team to get</p> <p>25 documents like this drafted. Also, when you go</p>
<p style="text-align: right;">Page 148</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to the legal team, the – you know, we always</p> <p>3 loop in compliance. And compliance – when you</p> <p>4 go to the legal team, compliance is part of</p> <p>5 legal team. They're made aware of – of – of</p> <p>6 these types of transactions.</p> <p>7 Q. And do you believe that you had</p> <p>8 the – withdrawn.</p> <p>9 Did you ever tell Mr. Dondero –</p> <p>10 (inaudible) – did you see those?</p> <p>11 A. Sorry.</p> <p>12 MS. DEITSCH-PEREZ: I did not hear</p> <p>13 the end of that question.</p> <p>14 Q. Did you ever tell Mr. Dondero that</p> <p>15 you signed these two notes?</p> <p>16 A. I don't recall ever – no, I don't</p> <p>17 recall having a conversation with him.</p> <p>18 Q. Did you ever discuss these two notes</p> <p>19 with him at any time?</p> <p>20 A. The conversation, I recall, was what</p> <p>21 I described earlier. And that is the only time</p> <p>22 I recall ever discussing this.</p> <p>23 Q. Okay. But the corporate accounting</p> <p>24 group had a copy of this – of these two notes.</p> <p>25 And pursuant to the audit process, the</p>	<p style="text-align: right;">Page 149</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 corporate accounting group gave the two notes</p> <p>3 to PricewaterhouseCoopers in connection with</p> <p>4 the audit; correct?</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 A. Yes. I mean, that is – yeah, I</p> <p>7 mean, they – unless the legal team can also</p> <p>8 retain copies of items like this. I mean, I</p> <p>9 don't know everything that they would retain as</p> <p>10 well.</p> <p>11 The legal team would also, if they</p> <p>12 had documents as part of audits, turn that over</p> <p>13 to the auditors as well. So it could have been</p> <p>14 the corporate accounting team. It could be</p> <p>15 someone on the legal team.</p> <p>16 Q. All right. So you didn't – you</p> <p>17 didn't draft this note; right?</p> <p>18 A. I – I – I did not.</p> <p>19 Q. But somebody at Highland did; is</p> <p>20 that fair?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 A. I don't know. I mean, we can go to</p> <p>24 the legal team. I don't – I'm not sitting</p> <p>25 behind someone in legal. Maybe they went to</p>

<p style="text-align: right;">Page 150</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 outside counsel. I have no idea.</p> <p>3 Q. Did you have any reason to believe</p> <p>4 you weren't authorized to sign this note,</p> <p>5 either of these two notes?</p> <p>6 A. I think I have already answered that</p> <p>7 question.</p> <p>8 Q. Okay. You didn't give these notes</p> <p>9 to PricewaterhouseCoopers; correct?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. I don't recall giving these to</p> <p>12 PricewaterhouseCoopers.</p> <p>13 Q. And in the practice that you have</p> <p>14 described, somebody in the corporate accounting</p> <p>15 group would have given these two notes to</p> <p>16 PricewaterhouseCoopers; correct?</p> <p>17 MS. DANDENEAU: Objection to form.</p> <p>18 A. I think I've answered that. I said</p> <p>19 either the corporate accounting team or maybe</p> <p>20 the legal team.</p> <p>21 MR. MORRIS: Okay. Why don't we</p> <p>22 take our lunch break here.</p> <p>23 VIDEOGRAPHER: We're going off the</p> <p>24 record at 1:04 p.m.</p> <p>25 (Recess taken 1:04 p.m. to 1:49 p.m.)</p>	<p style="text-align: right;">Page 151</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 VIDEOGRAPHER: We are back on the</p> <p>3 record at 1:49 p.m.</p> <p>4 Q. Mr. Waterhouse, did you speak with</p> <p>5 anybody during the break about the substance of</p> <p>6 this deposition?</p> <p>7 A. I spoke to -- to Deb and Michelle.</p> <p>8 Q. About the substance of the</p> <p>9 deposition?</p> <p>10 A. Yes.</p> <p>11 Q. Can you tell me what you talked</p> <p>12 about?</p> <p>13 MS. DANDENEAU: No. We object on</p> <p>14 the basis of privilege.</p> <p>15 Q. Okay. You are going to follow your</p> <p>16 counsel's objection here?</p> <p>17 A. Yes.</p> <p>18 Q. Okay.</p> <p>19 MR. MORRIS: Can we put up on the</p> <p>20 screen Exhibit 35.</p> <p>21 (Exhibit 35 marked.)</p> <p>22 Q. Are you able to see that document,</p> <p>23 sir?</p> <p>24 A. Yes.</p> <p>25 Q. Have you ever seen an incumbency</p>
<p style="text-align: right;">Page 152</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 certificate before?</p> <p>3 A. I have.</p> <p>4 Q. Do you have a general understanding</p> <p>5 of what an incumbency certificate is?</p> <p>6 A. I have a general understanding.</p> <p>7 Q. What is your general understanding?</p> <p>8 A. You know, those -- my general</p> <p>9 understanding is that the incumbency</p> <p>10 certificate basically lists folks that can --</p> <p>11 are like authorized signers.</p> <p>12 Q. Okay. And do you see that this is</p> <p>13 an incumbency certificate for Highland Capital</p> <p>14 Management Fund Advisors, L.P.?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And if we could scroll down</p> <p>17 just a little bit, do you see that it's dated</p> <p>18 effective as of April 11th, 2019?</p> <p>19 A. Yes, I see that.</p> <p>20 Q. Okay. And is that your signature in</p> <p>21 the middle of the signature block?</p> <p>22 A. Yes, it is.</p> <p>23 Q. And by signing it, did you accept</p> <p>24 appointment as the treasurer of HCMFA effective</p> <p>25 as of April 11th, 2019?</p>	<p style="text-align: right;">Page 153</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Again, I'm not the legal -- I don't</p> <p>3 know if this makes me the treasurer or the</p> <p>4 appointment. I don't know -- I don't know</p> <p>5 that, so I don't -- I don't know if that</p> <p>6 document -- again, I think -- again, I'm not</p> <p>7 the legal expert. I think isn't there --</p> <p>8 aren't there other legal documents that detail</p> <p>9 who the officers are that could be incorporated</p> <p>10 or things like that? Again, I don't want to</p> <p>11 play armchair attorney here.</p> <p>12 Q. I'm not asking you for a legal</p> <p>13 conclusion. I'm asking you for your knowledge</p> <p>14 and understanding. When you signed this</p> <p>15 document, did you understand that you were</p> <p>16 accepting an appointment as the treasurer of</p> <p>17 HCMFA?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 MS. DEITSCH-PEREZ: Objection, form.</p> <p>20 A. Again, I don't think this -- that</p> <p>21 wasn't my understanding. I don't think this</p> <p>22 makes -- this document makes me the treasurer.</p> <p>23 Q. What do you think this document --</p> <p>24 why did you sign this document?</p> <p>25 MS. DEITSCH-PEREZ: Objection to</p>

<p style="text-align: right;">Page 154</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 form.</p> <p>3 MR. MORRIS: You're objecting to the</p> <p>4 form of the question when I asked him why</p> <p>5 did you sign the document? What is the</p> <p>6 basis for the objection?</p> <p>7 MS. DEITSCH-PEREZ: Because, John, I</p> <p>8 think that it does call for a legal</p> <p>9 conclusion other than -- with him saying</p> <p>10 because somebody told me to sign this</p> <p>11 document. But if you want to go there,</p> <p>12 that is fine.</p> <p>13 MR. MORRIS: Okay.</p> <p>14 MS. DANDENEAU: I don't think --</p> <p>15 he's already said he's not a lawyer.</p> <p>16 MR. MORRIS: I'll allow the witness</p> <p>17 to answer this question.</p> <p>18 Q. Why did you sign this document, sir?</p> <p>19 A. I mean, our -- our legal group would</p> <p>20 bring by these incumbency certificates from</p> <p>21 time to time. I have no idea why they're being</p> <p>22 updated, and I was asked to sign.</p> <p>23 Q. Did you ask anybody, what is this</p> <p>24 document?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 155</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did anybody tell you why they needed</p> <p>3 you to sign the document?</p> <p>4 A. Not that I can recall.</p> <p>5 Q. You testified earlier that you</p> <p>6 understood that you served as the acting</p> <p>7 treasurer for HCMFA; correct?</p> <p>8 A. Yes.</p> <p>9 Q. How did you become the acting</p> <p>10 treasurer of HCMFA?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. I don't -- I don't know the legal --</p> <p>13 I don't know the legal mechanic of how I became</p> <p>14 the acting treasurer.</p> <p>15 Q. I'm not asking for the legal</p> <p>16 mechanic. I'm asking you as the person who</p> <p>17 is --</p> <p>18 MS. DANDENEAU: John, you said --</p> <p>19 MR. MORRIS: Stop.</p> <p>20 MS. DANDENEAU: -- how did you</p> <p>21 become the treasurer. That is --</p> <p>22 MR. MORRIS: Please stop.</p> <p>23 MS. DANDENEAU: That is a legal</p> <p>24 question.</p> <p>25 MR. MORRIS: I am not asking any</p>
<p style="text-align: right;">Page 156</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 legal questions, to be clear. I'm asking</p> <p>3 for this witness' understanding as to how</p> <p>4 he became the acting treasurer of HCMFA.</p> <p>5 If he doesn't know, he can say he doesn't</p> <p>6 know, but this legal stuff is nonsense, and</p> <p>7 I really object to it.</p> <p>8 Q. Sir, I'm asking you a very simple</p> <p>9 question.</p> <p>10 MS. DANDENEAU: Argumentative.</p> <p>11 Q. You testified -- you testified that</p> <p>12 you became the acting treasurer of HCM --</p> <p>13 HCMFA; correct?</p> <p>14 A. Yes.</p> <p>15 Q. How did that happen?</p> <p>16 MS. DANDENEAU: Again, object to</p> <p>17 form.</p> <p>18 MR. MORRIS: I can't wait to do this</p> <p>19 in a courtroom. Good God.</p> <p>20 Q. Go ahead, sir.</p> <p>21 A. I don't know the exact process of</p> <p>22 how that happened.</p> <p>23 Q. Do you have any idea whether signing</p> <p>24 this document was part of the process?</p> <p>25 MR. MORRIS: You know what --</p>	<p style="text-align: right;">Page 157</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: Objection.</p> <p>3 MR. MORRIS: -- withdrawn. You guys</p> <p>4 want to do this, I can't wait. I can't</p> <p>5 wait. This is the craziest stuff ever.</p> <p>6 MS. DANDENEAU: John, he said he's</p> <p>7 not a lawyer, and you are asking him for a</p> <p>8 legal conclusion, and he says he doesn't</p> <p>9 know, and you persist.</p> <p>10 MR. MORRIS: Okay.</p> <p>11 MS. DANDENEAU: So you can ask these</p> <p>12 questions --</p> <p>13 MR. MORRIS: Did anyone -- please</p> <p>14 stop talking.</p> <p>15 MS. DANDENEAU: -- at another</p> <p>16 point -- no, no, no, I'm entitled to talk,</p> <p>17 too; right? If you're going to make these</p> <p>18 accusations as if we're trying to stonewall</p> <p>19 you, this is not the witness to ask that</p> <p>20 question.</p> <p>21 MR. MORRIS: I can't -- I can't</p> <p>22 wait -- I can't wait to do this in a</p> <p>23 courtroom. I will just leave it at that.</p> <p>24 MS. DANDENEAU: That's right, I'm</p> <p>25 sure you can't.</p>

<p style="text-align: right;">Page 158</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did anyone ever tell you, sir, that</p> <p>3 even though you were the acting treasurer of</p> <p>4 HCMFA, that you were not authorized to sign the</p> <p>5 two promissory notes that we looked at before</p> <p>6 lunch?</p> <p>7 A. I'm not sure I understand the</p> <p>8 question. I wasn't – I mean, I'm – I'm the</p> <p>9 current acting treasurer.</p> <p>10 Q. Did anybody ever tell you at any</p> <p>11 time that even though you were the acting</p> <p>12 treasurer of HCMFA, that you were not</p> <p>13 authorized to sign the two promissory notes</p> <p>14 that we looked at before lunch?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. Not that I recall.</p> <p>17 Q. Did anybody ever tell you at any</p> <p>18 time that you were not authorized to sign the</p> <p>19 two promissory notes that we looked at before</p> <p>20 lunch?</p> <p>21 A. Not that I recall.</p> <p>22 Q. Did anybody ever tell you at any</p> <p>23 time that you should not have signed the two</p> <p>24 promissory notes that we looked at before</p> <p>25 lunch?</p>	<p style="text-align: right;">Page 159</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Not that I recall.</p> <p>3 Q. Did you ever tell anybody at any</p> <p>4 time that you weren't authorized to sign the</p> <p>5 two promissory notes that we looked at before</p> <p>6 lunch?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did you ever tell anybody at any</p> <p>9 time that you made a mistake when you signed</p> <p>10 the two promissory notes that we looked at</p> <p>11 before lunch?</p> <p>12 A. Not that I recall.</p> <p>13 Q. As you sit here right now, do you</p> <p>14 have any reason to believe that you were not</p> <p>15 authorized to sign the two documents that we</p> <p>16 looked at before lunch?</p> <p>17 MS. DANDENEAU: Objection to form.</p> <p>18 A. If – if this is the – the valid</p> <p>19 incumbency certificate, I mean, this does –</p> <p>20 this does detail who the signers are.</p> <p>21 Q. Okay. And looking at that document,</p> <p>22 does that give you comfort that you were</p> <p>23 authorized to sign the two promissory notes</p> <p>24 that we looked at before lunch?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>
<p style="text-align: right;">Page 160</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 form.</p> <p>3 MS. DANDENEAU: Objection, form.</p> <p>4 A. Yes.</p> <p>5 Q. As of October 20th – withdrawn.</p> <p>6 I'm trying to take your mind back to</p> <p>7 a year ago, October 2020. Do you recall at</p> <p>8 that time that the boards of the retail funds</p> <p>9 were making inquiries about obligations that</p> <p>10 were owed by the advisors to Highland in</p> <p>11 connection with their 15(c) review?</p> <p>12 MS. DANDENEAU: Objection to form.</p> <p>13 A. I don't – I don't recall.</p> <p>14 Q. As of October 2020, you had no</p> <p>15 reason to believe you weren't authorized to</p> <p>16 sign the two promissory notes that we just</p> <p>17 looked at; correct?</p> <p>18 MS. DANDENEAU: Objection, form.</p> <p>19 MS. DEITSCH-PEREZ: Objection to</p> <p>20 form.</p> <p>21 A. I didn't think about it in October</p> <p>22 of 2020, but I mean –</p> <p>23 Q. Did you have any reason to believe</p> <p>24 at that time that you weren't authorized to</p> <p>25 sign the two notes that we just looked at?</p>	<p style="text-align: right;">Page 161</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Not that I'm aware, no.</p> <p>3 Q. Did you have any reason to believe a</p> <p>4 year ago that you made a mistake when you</p> <p>5 signed those two notes?</p> <p>6 A. Not that I'm aware.</p> <p>7 Q. A year ago you believed that HCMFA</p> <p>8 owed Highland the unpaid principal amounts that</p> <p>9 were due under those two notes; correct?</p> <p>10 A. They're – they're promissory notes</p> <p>11 that were – as you presented, that were –</p> <p>12 that were executed. Whether they're valid or</p> <p>13 if there's other reasons, I didn't – I don't</p> <p>14 know.</p> <p>15 Q. I'm not asking you whether they're</p> <p>16 valid or not. I'm asking you for your state of</p> <p>17 mind. A year ago you believed that HCMFA</p> <p>18 was – was obligated to pay the unpaid</p> <p>19 principal amount under the two notes that you</p> <p>20 signed; correct?</p> <p>21 A. Yeah, I'm – I'm – yes.</p> <p>22 Q. Thank you. Are you aware – you're</p> <p>23 aware that – that in 2017, NexPoint issued a</p> <p>24 note in favor of Highland in the approximate</p> <p>25 amount of \$30 million; correct?</p>

<p style="text-align: right;">Page 162</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I'm – I'm – I'm generally aware.</p> <p>3 Q. Okay. And are you generally aware</p> <p>4 that from time to time, after the note was</p> <p>5 issued by NexPoint, that moneys were applied to</p> <p>6 principal and interest that were due under the</p> <p>7 NexPoint note?</p> <p>8 A. Yes, I'm generally aware.</p> <p>9 Q. Okay. And did anybody ever tell you</p> <p>10 that the payments that were made against the</p> <p>11 NexPoint notes were made by mistake?</p> <p>12 A. Yes.</p> <p>13 Q. And is it the one payment that we</p> <p>14 talked about earlier today?</p> <p>15 A. We talked about a lot of things</p> <p>16 today. What payment are we talking about?</p> <p>17 Q. Okay. Who told you that any payment</p> <p>18 made against the NexPoint note was made by</p> <p>19 mistake?</p> <p>20 A. D.C. Sauter.</p> <p>21 Q. When did Mr. Sauter tell you that?</p> <p>22 A. I don't – I don't remember</p> <p>23 specifically.</p> <p>24 Q. Do you remember what payments –</p> <p>25 A. Sometime – sometime this year.</p>	<p style="text-align: right;">Page 163</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Sometime in 2021?</p> <p>3 A. Yes.</p> <p>4 Q. Do you remember what payment he was</p> <p>5 referring to?</p> <p>6 A. It was the – the payment made in</p> <p>7 January of 2021 or – yeah, January of – of</p> <p>8 this – January of 2021.</p> <p>9 Q. Okay. So did anybody ever tell you</p> <p>10 at any time that any payment that was made</p> <p>11 against principal –</p> <p>12 A. And – and – and – hold on, and it</p> <p>13 may have been other – again, it may have been</p> <p>14 that payment or – or there may have been what</p> <p>15 he was explaining, a misapplication of prior</p> <p>16 payments as well.</p> <p>17 Q. Can you – can you give me any</p> <p>18 specificity – withdrawn.</p> <p>19 Withdrawn. Can you tell me</p> <p>20 everything that Mr. Sauter told you about –</p> <p>21 about errors in relation to payments made</p> <p>22 against principal and interest due under the</p> <p>23 NexPoint note?</p> <p>24 MS. DANDENEAU: Can I just –</p> <p>25 MR. RUKAVINA: Hold on. Hold on.</p>
<p style="text-align: right;">Page 164</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 I'm going to object here, and I'm going to</p> <p>3 instruct the witness not to answer</p> <p>4 depending on the discussion that you had –</p> <p>5 Mr. Waterhouse, I'm the lawyer for</p> <p>6 NexPoint, and as everyone here knows, D.C.</p> <p>7 Sauter is in-house counsel.</p> <p>8 So if you and Mr. Sauter were having</p> <p>9 a factual discussion and him preparing his</p> <p>10 affidavit, et cetera, then go ahead and</p> <p>11 answer that. But if you were having a</p> <p>12 discussion as to our legal strategy in this</p> <p>13 lawsuit, or anything having to do with</p> <p>14 that, then do not answer that.</p> <p>15 And if you need to talk to either</p> <p>16 your counsel or me about that, then we need</p> <p>17 to have that discussion now.</p> <p>18 A. Okay. Yeah, I don't – I don't</p> <p>19 really know how to make that distinction, so</p> <p>20 maybe I need to talk to counsel before I</p> <p>21 answer, or if I can answer.</p> <p>22 Q. Let me just ask you this question:</p> <p>23 Did – did you have any conversation with</p> <p>24 Mr. Sauter about any payment of principal and</p> <p>25 interest prior to the time that you left</p>	<p style="text-align: right;">Page 165</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Highland's employment, or did it happen after</p> <p>3 you left Highland's employment?</p> <p>4 A. I don't – I don't recall if – I</p> <p>5 don't recall. I mean, it was sometime in 2021.</p> <p>6 I don't remember if it was before or after I</p> <p>7 was let go from Highland.</p> <p>8 Q. Okay. So – so nobody told you</p> <p>9 prior to 2021 that any error or mistake was</p> <p>10 made in the application of payments against</p> <p>11 principal and interest due on the NexPoint</p> <p>12 note. Do I have that right?</p> <p>13 A. Yeah, I don't – I don't recall this</p> <p>14 being in 2020.</p> <p>15 Q. Okay. And it didn't happen in 2019;</p> <p>16 correct?</p> <p>17 A. I don't recall that happened.</p> <p>18 Q. And it didn't happen in 2018;</p> <p>19 correct?</p> <p>20 A. I don't – I don't recall that</p> <p>21 happening.</p> <p>22 Q. And it didn't happen in 2017;</p> <p>23 correct?</p> <p>24 A. I don't recall.</p> <p>25 Q. But – but you believe the</p>

<p style="text-align: right;">Page 166</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 conversation took place in 2021. You just</p> <p>3 don't remember if it was before or after you</p> <p>4 left Highland's employment. Do I have that</p> <p>5 right?</p> <p>6 A. It was sometime this year. I</p> <p>7 don't – I don't remember.</p> <p>8 Q. Okay. Did you report this</p> <p>9 conversation to Mr. Seery at any point?</p> <p>10 A. I don't believe so.</p> <p>11 Q. Did you report this conversation to</p> <p>12 anybody at DSI at any time?</p> <p>13 A. I don't recall.</p> <p>14 Q. Do you have – you don't have a</p> <p>15 recollection of ever doing that; correct?</p> <p>16 A. Yeah, that's right. I don't recall</p> <p>17 doing that.</p> <p>18 Q. Do you recall telling anybody at</p> <p>19 Pachulski Stang about the conversation you</p> <p>20 recall with Mr. Sauter?</p> <p>21 A. No, I don't – I don't recall.</p> <p>22 Q. Did you tell any of the independent</p> <p>23 board members about your conversation with</p> <p>24 Mr. Sauter?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 167</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did you tell any of the employees at</p> <p>3 Highland before you left Highland's employment</p> <p>4 about this call that you had with Mr. Sauter?</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 A. No, I don't – no, I don't recall.</p> <p>7 Q. NexPoint – to the best of your</p> <p>8 knowledge, did NexPoint ever file a proof of</p> <p>9 claim against Highland to try to recover moneys</p> <p>10 that were mistakenly paid against the principal</p> <p>11 and interest due under the note?</p> <p>12 A. Okay. Hold on. You are saying did</p> <p>13 NexPoint Advisors file a proof of claim to</p> <p>14 Highland for errors related to payments under</p> <p>15 the NexPoint note to Highland?</p> <p>16 Q. Correct.</p> <p>17 A. I'm – I'm – I'm not – I'm not</p> <p>18 aware.</p> <p>19 Q. Are you aware –</p> <p>20 A. I'm not the legal person here, I</p> <p>21 don't know.</p> <p>22 Q. I'm just asking for your knowledge,</p> <p>23 sir.</p> <p>24 A. Yeah, I don't know. I'm not aware.</p> <p>25 Q. Are you aware of any claim of any</p>
<p style="text-align: right;">Page 168</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 kind that NexPoint has ever made to try to</p> <p>3 recover the amounts that it contends were – or</p> <p>4 that Mr. Sauter contend were mistakenly applied</p> <p>5 against principal and interest due under the</p> <p>6 NexPoint note?</p> <p>7 A. I'm not aware.</p> <p>8 MS. DANDENEAU: Objection to form.</p> <p>9 Q. Okay. The advisors' agreements with</p> <p>10 the retail funds are subject to annual renewal;</p> <p>11 correct?</p> <p>12 A. Yes.</p> <p>13 Q. And do you participate in the</p> <p>14 renewal process each year?</p> <p>15 A. Yes.</p> <p>16 Q. What role do you play in the renewal</p> <p>17 process?</p> <p>18 A. I'm – I'm asked by the retail board</p> <p>19 to walk-through the advisors financials.</p> <p>20 Q. And do you do that in the context of</p> <p>21 a board meeting?</p> <p>22 A. Yes, it is – yes, it is typically</p> <p>23 done in a board meeting.</p> <p>24 Q. And do you recall the time –</p> <p>25 does – does the renewal process happen around</p>	<p style="text-align: right;">Page 169</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the same time each year?</p> <p>3 A. Yes, it is – it is around the same</p> <p>4 time every year.</p> <p>5 Q. And what – what time period of the</p> <p>6 year does the renewal process occur?</p> <p>7 A. Approximately the September</p> <p>8 timeframe.</p> <p>9 Q. During that process, in your</p> <p>10 experience, does the board typically conduct</p> <p>11 its own diligence and ask for information?</p> <p>12 A. Does the board ask for lots of – I</p> <p>13 mean, just – I mean, lots of information as a</p> <p>14 part of that – that – as part of that board</p> <p>15 meeting and that process.</p> <p>16 Q. Okay. And do you recall that the</p> <p>17 process in 2020 spilled into October?</p> <p>18 A. Yes. Yes.</p> <p>19 Q. Okay. And as part of the process in</p> <p>20 2020, the retail board asked – asked what are</p> <p>21 referred to as 15(c) questions; right?</p> <p>22 A. I guess I don't want to be – they</p> <p>23 asked 15(c) – are you saying they asked 15(c)</p> <p>24 questions and this is why it went into October</p> <p>25 or –</p>

<p style="text-align: right;">Page 170</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. No, I apologize.</p> <p>3 Do you have an understanding of</p> <p>4 what – of what 15(c) refers to in the context</p> <p>5 of the annual renewal process?</p> <p>6 A. Yes, generally.</p> <p>7 Q. All right. What is your general</p> <p>8 understanding of the term "15(c)" in the</p> <p>9 context of the annual renewal process?</p> <p>10 A. I – I think 15(c) is the section</p> <p>11 that – that – you know, that – that the</p> <p>12 board has to evaluate every year, the retail</p> <p>13 board. They have to, you know, go through,</p> <p>14 evaluate, and go through that approval process</p> <p>15 on a yearly basis.</p> <p>16 Q. Okay.</p> <p>17 MR. MORRIS: Can we put up on the</p> <p>18 screen Exhibit 36, please.</p> <p>19 (Exhibit 36 marked.)</p> <p>20 MR. MORRIS: I guess let's just</p> <p>21 start at the bottom so Mr. Waterhouse can</p> <p>22 see what is here.</p> <p>23 Q. You see this begins with an email</p> <p>24 from Blank Rome to a number of people.</p> <p>25 MR. MORRIS: And if we can scroll</p>	<p style="text-align: right;">Page 171</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 up – keep going just a little bit.</p> <p>3 Q. You will see that there is an email</p> <p>4 from Lauren Thedford to Thomas Surgent and</p> <p>5 others where she reports that she was attaching</p> <p>6 and reproducing below additional 15(c)</p> <p>7 follow-up questions from the board.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And do you see Question No. 2 asks</p> <p>11 whether there are any material outstanding</p> <p>12 amounts currently payable or due in the future</p> <p>13 (e.g., notes) to HCMLP by HCMFA or NexPoint</p> <p>14 Advisors or any other affiliate that provides</p> <p>15 services to the funds?</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And – and did you – do you recall</p> <p>19 that in – in October of 2020 the retail boards</p> <p>20 were asking for that information?</p> <p>21 A. I don't recall it, but there –</p> <p>22 they're obviously asking in this email.</p> <p>23 Q. Okay.</p> <p>24 MR. MORRIS: Can we scroll up a</p> <p>25 little bit, please.</p>
<p style="text-align: right;">Page 172</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And then do you see that</p> <p>3 Ms. Thedford includes you on the email string</p> <p>4 on Tuesday, October 6th, at 5:52?</p> <p>5 A. Yes.</p> <p>6 Q. And she asks you and Dave Klos and</p> <p>7 Kristin Hendrix for advice on that particular</p> <p>8 Request No. 2 that I have just read; right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Can you tell me who</p> <p>11 Ms. Thedford is?</p> <p>12 A. She was an attorney that was in the</p> <p>13 legal group.</p> <p>14 Q. At Highland Capital Management,</p> <p>15 L.P.?</p> <p>16 A. I'm – I'm – I'm – I don't</p> <p>17 remember if she was an employee of Highland or</p> <p>18 any of the advisors.</p> <p>19 Q. Okay. Do you know if she served as</p> <p>20 the corporate secretary for both HCMFA and</p> <p>21 NexPoint?</p> <p>22 A. Yes.</p> <p>23 Q. And – okay.</p> <p>24 Do you know whether Ms. Thedford</p> <p>25 held any positions in relation to the retail</p>	<p style="text-align: right;">Page 173</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 funds as we defined that term?</p> <p>3 A. Yes.</p> <p>4 Q. What is your understanding of the</p> <p>5 positions that Ms. Thedford held at the retail</p> <p>6 funds?</p> <p>7 A. I – I recall her being an officer.</p> <p>8 I don't recall her title.</p> <p>9 Q. Okay. Is she still an officer at</p> <p>10 any of the retail funds today?</p> <p>11 A. No.</p> <p>12 Q. Do you know when she ceased to be an</p> <p>13 officer of the retail funds?</p> <p>14 A. Approximately.</p> <p>15 Q. And when did she approximately cease</p> <p>16 to be an officer of the retail funds?</p> <p>17 A. It was in – it was in early of</p> <p>18 2021.</p> <p>19 Q. Okay. Do you know when she became</p> <p>20 an officer of the retail funds?</p> <p>21 A. I don't recall.</p> <p>22 Q. To the best of your recollection,</p> <p>23 was she an officer of the retail funds in</p> <p>24 October of 2020?</p> <p>25 A. I believe so.</p>

<p style="text-align: right;">Page 174</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Do you know what title she</p> <p>3 held in her capacity as an officer, if any?</p> <p>4 A. I told you I don't remember.</p> <p>5 Q. Okay. So she sends this email to</p> <p>6 you at 5:52 p.m. on October 6th.</p> <p>7 And if we can scroll up to the</p> <p>8 response, you responded a minute later with a</p> <p>9 one-word answer. Yes.</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And – and yes is – yes was in</p> <p>13 response to the retail board's Question No. 2,</p> <p>14 right, whether there are any material</p> <p>15 outstanding amounts currently payable or due in</p> <p>16 the future?</p> <p>17 A. Yes.</p> <p>18 MR. MORRIS: And can we scroll up to</p> <p>19 see what happened next.</p> <p>20 Q. So Ms. Thedford writes back to you a</p> <p>21 few minutes later and she asks whether you</p> <p>22 could provide the amounts.</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. And then you respond further and you</p>	<p style="text-align: right;">Page 175</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 refer her to the balance sheet that was</p> <p>3 provided to the board as part of the 15(c)</p> <p>4 materials.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And – and did the advisors provide</p> <p>8 to the board certain balance sheets in 2020 in</p> <p>9 connection with the 15(c) review?</p> <p>10 A. Yes, they did.</p> <p>11 Q. Okay. And were the amounts that</p> <p>12 were outstanding or that were to be due in the</p> <p>13 future by the advisors to Highland included in</p> <p>14 the liability section of the balance sheet that</p> <p>15 was given to the retail board?</p> <p>16 A. Yes. Notes would be reflected as</p> <p>17 liabilities.</p> <p>18 Q. Okay. And –</p> <p>19 A. If I'm understanding your question</p> <p>20 correctly.</p> <p>21 Q. You are. And – and – and those</p> <p>22 liabilities you – you were – you believed</p> <p>23 were responsive to the retail board's question;</p> <p>24 correct?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 176</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. And then if we can scroll up,</p> <p>3 you see Ms. Thedford responds to you</p> <p>4 nine minutes later with a draft response.</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And she says that she is taking from</p> <p>8 the 6/30 financials certain information about</p> <p>9 amounts that were due to HCMFP and affiliates</p> <p>10 as of June 30th, 2020.</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Okay. And did you believe, as the</p> <p>14 treasurer of NexPoint and HCMFA and as the CFO</p> <p>15 of Highland, that the information that</p> <p>16 Ms. Thedford obtained from the 6/30 financials</p> <p>17 was accurate and responsive in relation to the</p> <p>18 retail fund board's question?</p> <p>19 A. I just want to make sure I</p> <p>20 understand the question.</p> <p>21 Are you saying that the financial</p> <p>22 information provided to the retail board as</p> <p>23 part of the 15(c) process, which included</p> <p>24 financial statements as of June 30th of 2021,</p> <p>25 did I feel like those were responsive to their</p>	<p style="text-align: right;">Page 177</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 questions?</p> <p>3 Q. Yes.</p> <p>4 A. Yes.</p> <p>5 Q. Thank you.</p> <p>6 MS. DEITSCH-PEREZ: John, it is not</p> <p>7 in the chat yet. Can you just make sure it</p> <p>8 gets put in there.</p> <p>9 MR. MORRIS: Sure.</p> <p>10 MS. CANTY: I put it in there. I</p> <p>11 think maybe I just sent it directly, so let</p> <p>12 me make sure it says to everyone. But I</p> <p>13 did put it in there. I will try again.</p> <p>14 MR. MORRIS: Thank you, La Asia.</p> <p>15 MS. DANDENEAU: What number is it.</p> <p>16 MR. MORRIS: What, the Bates number?</p> <p>17 MS. DEITSCH-PEREZ: No, the –</p> <p>18 this – yeah, 36 is not in the chat.</p> <p>19 MR. MORRIS: Okay. We'll get it.</p> <p>20 MS. DANDENEAU: I think that</p> <p>21 Ms. Canty just sent it to me originally.</p> <p>22 Sorry.</p> <p>23 MR. MORRIS: Okay. We will get it</p> <p>24 there.</p> <p>25 MS. CANTY: Okay. It is there now</p>

<p style="text-align: right;">Page 178</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 for everyone.</p> <p>3 MS. DEITSCH-PEREZ: Got it. Thank</p> <p>4 you.</p> <p>5 Q. Do you recall if the proposed</p> <p>6 response that Ms. Thedford crafted was</p> <p>7 delivered to the retail board with the – with</p> <p>8 the yellow dates having been completed?</p> <p>9 A. I don't know.</p> <p>10 MR. MORRIS: Davor, I'm going to ask</p> <p>11 that the advisors and – the advisors of</p> <p>12 both HCMFA and NexPoint produce to me any</p> <p>13 report that was given to the retail board</p> <p>14 concerning the promissory notes at issue,</p> <p>15 including the obligations under the notes.</p> <p>16 Q. Do you know – do you know if</p> <p>17 ultimately NexPoint informed the retail board</p> <p>18 in response to its question that NexPoint owed</p> <p>19 Highland approximately 23 or \$24 million?</p> <p>20 MS. DANDENEAU: Objection to the</p> <p>21 form.</p> <p>22 A. Sorry, are you asking, did NexPoint</p> <p>23 tell the retail board that it owed Highland?</p> <p>24 Q. Let me ask a better question,</p> <p>25 Mr. Waterhouse.</p>	<p style="text-align: right;">Page 179</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Did – do you know if anybody ever</p> <p>3 answered the retail board's question that was</p> <p>4 Number 2?</p> <p>5 A. I don't – I can't say for sure.</p> <p>6 Q. Okay. Do you recall – I think you</p> <p>7 testified earlier that you walked through the</p> <p>8 advisors' financials with the retail board;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And as part of that process, did you</p> <p>12 disclose to the retail board the obligations</p> <p>13 that NexPoint and HCMFA had to Highland under</p> <p>14 promissory notes?</p> <p>15 A. The retail board, as I stated</p> <p>16 earlier, receives financial information,</p> <p>17 balance sheet, income statement information</p> <p>18 from the advisors. That information is</p> <p>19 provided to the retail board in connection with</p> <p>20 the 15(c) process.</p> <p>21 So any notes between the advisors</p> <p>22 and the Highland would be – anything would be</p> <p>23 detailed in those financial statements.</p> <p>24 Q. Do you recall in 2020 ever speaking</p> <p>25 with the retail board about the advisors'</p>
<p style="text-align: right;">Page 180</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 obligations under the notes to Highland?</p> <p>3 MS. DANDENEAU: Objection to form.</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. I don't recall specifically.</p> <p>7 Q. Do you have any general recollection</p> <p>8 of discussing with the retail board the</p> <p>9 advisors' obligations to Highland under the</p> <p>10 notes that they issued?</p> <p>11 MS. DANDENEAU: Object to the form.</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. I just recall generally just – it</p> <p>15 is just – I present the financial statements,</p> <p>16 and if they have questions, I answer their</p> <p>17 questions and walk them through.</p> <p>18 I don't recall what they asked. I</p> <p>19 don't recall where the discussion went. I</p> <p>20 don't recall anything of that nature.</p> <p>21 Q. Okay. Do you know if anybody on</p> <p>22 behalf of HCMF – HCMFA ever told the retail</p> <p>23 board that HCMFA had no obligations under the</p> <p>24 two 2019 notes that you signed? Withdrawn.</p> <p>25 Do you know whether anybody on</p>	<p style="text-align: right;">Page 181</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 behalf of HCMFA ever told the retail boards</p> <p>3 that you weren't authorized to sign either of</p> <p>4 the two 2019 notes?</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 A. I'm not aware.</p> <p>7 Q. Are you aware of anybody on behalf</p> <p>8 of HCMFA ever telling the retail boards that</p> <p>9 your execution of the two 2019 notes was a</p> <p>10 mistake?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. I'm not aware.</p> <p>13 Q. Are you aware of anybody on behalf</p> <p>14 of HCMFA ever telling the retail boards that</p> <p>15 HCMFA did not have to pay the amounts reflected</p> <p>16 in the two notes that you signed in 2019?</p> <p>17 A. I'm not aware.</p> <p>18 Q. Do you know whether anybody ever</p> <p>19 told the retail boards – withdrawn.</p> <p>20 Do you know whether anybody ever</p> <p>21 told the retail boards that Highland has</p> <p>22 commenced a lawsuit to recover on the two notes</p> <p>23 that you signed in 2019?</p> <p>24 A. I'm not aware.</p> <p>25 Q. Are you aware of anybody informing</p>

<p style="text-align: right;">Page 182</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the retail boards that Highland has sued to</p> <p>3 recover on the NexPoint note?</p> <p>4 A. I'm not aware.</p> <p>5 Q. Do you know whether anybody ever</p> <p>6 told the retail board that Highland had</p> <p>7 declared a default with respect to the two</p> <p>8 HCMFA notes that you signed in 2019?</p> <p>9 A. I'm not aware.</p> <p>10 Q. Are you aware of anybody ever</p> <p>11 informing the retail boards that Highland had</p> <p>12 declared a default under the NexPoint note?</p> <p>13 A. I'm not aware.</p> <p>14 Q. Are you aware of anybody telling the</p> <p>15 retail board that Highland made a demand for</p> <p>16 payment under the 2019 notes that you signed on</p> <p>17 behalf of HCMFA?</p> <p>18 A. I'm not aware.</p> <p>19 Q. Let's -- let's see if there is a</p> <p>20 response to Ms. Thedford's email, if we can</p> <p>21 scroll up.</p> <p>22 Do you see you responded to</p> <p>23 Ms. Thedford five minutes after she provided</p> <p>24 the draft response to you?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 183</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. And do you see that Dustin</p> <p>3 Norris is copied on this email?</p> <p>4 A. Yes, he is.</p> <p>5 Q. Great. Do you know whether</p> <p>6 Mr. Norris held any positions at either of the</p> <p>7 advisors as of October 6, 2020?</p> <p>8 A. I will go back to -- I'm not the</p> <p>9 legal expert of what appoints you or how or</p> <p>10 why, but you did see Dustin's name on the</p> <p>11 incumbency certificate that you produced</p> <p>12 earlier.</p> <p>13 Q. Do you know what his title was in</p> <p>14 October of 2020?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. I don't -- I don't recall.</p> <p>17 Q. Was he -- did he have a title with</p> <p>18 each of the advisors, to the best of your</p> <p>19 recollection?</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you know why he is included on</p> <p>22 this email string?</p> <p>23 A. I didn't add Dustin. It looks like</p> <p>24 Lauren did. I don't know why she added him or</p> <p>25 not. You would have to ask her.</p>
<p style="text-align: right;">Page 184</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Does Mr. Norris play a role in</p> <p>3 formulating the advisors' responses to the</p> <p>4 questions asked by the retail board in</p> <p>5 connection with the 15(c) annual review?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 A. He -- Dustin Norris is there in the</p> <p>8 board meetings. But -- so he has a role, yes.</p> <p>9 Q. Okay. And does Mr. Norris hold any</p> <p>10 positions, to the best of your knowledge, in</p> <p>11 relation to any of the retail funds?</p> <p>12 A. I don't -- I don't believe he does.</p> <p>13 Q. How about Mr. Post, do you know</p> <p>14 whether Mr. Post holds any position in either</p> <p>15 of the advisors?</p> <p>16 A. I mean, he -- he -- yes.</p> <p>17 Q. What is your understanding of the</p> <p>18 positions that Mr. Post holds in relation to</p> <p>19 the advisors?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. He is an employee of NexPoint</p> <p>22 Advisors. He is also the chief compliance</p> <p>23 officer for -- for NexPoint.</p> <p>24 Q. Who is the chief compliance officer</p> <p>25 for HCMFA, if you know?</p>	<p style="text-align: right;">Page 185</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: Objection to form.</p> <p>3 A. That would be Jason as well.</p> <p>4 Q. Okay. Now, looking at your</p> <p>5 response, you noted initially that nothing was</p> <p>6 owed under shared services. Do I have that</p> <p>7 right in substance?</p> <p>8 A. Yeah. I think I'm being responsive</p> <p>9 to Lauren's question here, whether any of the</p> <p>10 shared service invoices are outstanding.</p> <p>11 Q. Right.</p> <p>12 A. Yes.</p> <p>13 Q. And that is because -- and that is</p> <p>14 because the retail the retail board has asked</p> <p>15 for the disclosure of all material obligations</p> <p>16 that were owed to HCMLP either then or in the</p> <p>17 future; isn't that right?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 Q. We can go back down and look.</p> <p>20 A. Look, I don't know if that's a</p> <p>21 material item, I mean, again, but sure.</p> <p>22 Q. Okay. But there were no shared</p> <p>23 services outstanding; correct?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. That is what this email seems to</p>

<p style="text-align: right;">Page 186</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 indicate.</p> <p>3 Q. And you wouldn't have written it if</p> <p>4 you didn't believe it to be true at the time;</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. And when you referred to shared</p> <p>8 services outstanding, what you meant there was</p> <p>9 that neither NexPoint nor HCMFA owed Highland</p> <p>10 any money under the shared services agreements</p> <p>11 that they had with Highland as of October 6th,</p> <p>12 2020; right?</p> <p>13 A. I don't know if it is as of October</p> <p>14 6, 2020 or if it was from -- like through the</p> <p>15 financials -- through the date of the</p> <p>16 financials as of June 30.</p> <p>17 Q. Okay. And then you noted that</p> <p>18 HCMA -- the HCMFA note is a demand note; right?</p> <p>19 A. Yes.</p> <p>20 Q. And then you referred Ms. Thedford</p> <p>21 to Kristin Hendrix for the term of the NexPoint</p> <p>22 note. Do I have that right?</p> <p>23 A. Yes.</p> <p>24 Q. And then you refer to that agreement</p> <p>25 that is referenced in the 2018 audited</p>	<p style="text-align: right;">Page 187</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 financials about Highland's agreement not to</p> <p>3 make demand upon HCMFA until May 2021; correct?</p> <p>4 A. Correct.</p> <p>5 Q. And then -- and then the next thing</p> <p>6 you write is that the attorneys think that BK</p> <p>7 doesn't change that, but don't know for sure at</p> <p>8 the end of the day.</p> <p>9 Do you see that sentence?</p> <p>10 A. Yes.</p> <p>11 Q. Which attorneys were you referring</p> <p>12 to?</p> <p>13 A. I don't remember.</p> <p>14 Q. Did you have a conversation with</p> <p>15 attorneys concerning whether the bankruptcy</p> <p>16 would change or alter in any way the agreement</p> <p>17 not to make a demand under the HCMFA note?</p> <p>18 A. Look, yeah, I mean, I don't</p> <p>19 specifically remember, but generally, I mean,</p> <p>20 it is in this email. I don't -- I don't -- I</p> <p>21 don't -- I don't remember who I talked to or,</p> <p>22 you know, was it inside counsel, outside</p> <p>23 counsel, but obviously I talked to somebody.</p> <p>24 Q. Do you have any recollection --</p> <p>25 A. Well, I don't even know if it's --</p>
<p style="text-align: right;">Page 188</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 actually, it may not even have been me. I say</p> <p>3 the attorneys in, you know, a lot of -- like I</p> <p>4 talked about the team.</p> <p>5 It could have been someone on the</p> <p>6 team, like, hey, we need to run this down, and</p> <p>7 maybe they talked to attorneys again and</p> <p>8 relayed that information to me.</p> <p>9 So I really don't know if I spoke or</p> <p>10 someone else did or -- or, I mean, and maybe it</p> <p>11 wasn't even from corporate accounting. Maybe</p> <p>12 it was, you know, other -- I'm kind of</p> <p>13 summarizing, you know, again, so I don't really</p> <p>14 know -- I can't really say for sure. I don't</p> <p>15 remember how I came about of this knowledge.</p> <p>16 Q. I appreciate your efforts,</p> <p>17 Mr. Waterhouse, but I will just tell you that</p> <p>18 if I ask a question and you don't know the</p> <p>19 answer or you don't recall, I'm happy to accept</p> <p>20 that. I don't -- I don't want you to</p> <p>21 speculate, so I want to be clear about that.</p> <p>22 So I appreciate it.</p> <p>23 Let me just ask you simply: Do you</p> <p>24 know what attorneys -- can you identify any of</p> <p>25 the attorneys who thought that the bankruptcy</p>	<p style="text-align: right;">Page 189</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 process didn't change the agreement?</p> <p>3 A. I don't recall.</p> <p>4 Q. Okay. Perfect.</p> <p>5 And then let's look at the last</p> <p>6 sentence. It says, quote: The response should</p> <p>7 include, as I covered in the board meeting,</p> <p>8 that both entities have the full faith and</p> <p>9 backing from Jim Dondero, and to my knowledge</p> <p>10 that hasn't changed.</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Prior to October 6th, 2020,</p> <p>14 had you told the retail board that HCMFA and</p> <p>15 NexPoint have the full faith and backing from</p> <p>16 Jim Dondero?</p> <p>17 A. Yes.</p> <p>18 Q. Do you remember in the context in</p> <p>19 which you told the retail board that?</p> <p>20 A. I mean, generally, yes.</p> <p>21 Q. Tell me what you recall.</p> <p>22 A. So we were walking through the</p> <p>23 financials from the advisors; right? So as I</p> <p>24 described to you, you have got HCMFA and NPA.</p> <p>25 And these -- the financials, you know, show</p>

<p style="text-align: right;">Page 190</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 they have liabilities on them that exceed</p> <p>3 assets.</p> <p>4 So the retail board has asked, okay,</p> <p>5 you know, how – you know, if – if these</p> <p>6 liabilities come due or they're payable, you</p> <p>7 know, how does that come about?</p> <p>8 And, you know, the response is,</p> <p>9 well, the advisors have the – the full faith</p> <p>10 and backing from – from Jim Dondero.</p> <p>11 Q. And how did you know that the</p> <p>12 advisors had the full faith and backing from</p> <p>13 Jim Dondero? What was the basis for that</p> <p>14 statement that you made to the retail board?</p> <p>15 A. I talked to Jim about it at some</p> <p>16 point in the past.</p> <p>17 Q. And did you tell Mr. Dondero that</p> <p>18 you were going to inform the retail board that</p> <p>19 the advisors had his full faith and backing</p> <p>20 before you actually told that to the retail</p> <p>21 board?</p> <p>22 A. I don't recall having that</p> <p>23 conversation.</p> <p>24 Q. Do you recall if you ever informed</p> <p>25 Mr. Dondero that you had disclosed or told the</p>	<p style="text-align: right;">Page 191</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 retail board that the advisors had the full</p> <p>3 faith and backing of Mr. – Mr. Dondero?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. I don't recall discussing that with</p> <p>7 him at the time.</p> <p>8 Q. When you told this to the board, was</p> <p>9 Mr. Dondero participating in the discussion?</p> <p>10 A. Not that I recall.</p> <p>11 Q. Withdrawn. Was it not – withdrawn.</p> <p>12 Do you recall whether – when you</p> <p>13 covered this issue with the board, was that in</p> <p>14 a – a Zoom call or a Webex call? Was it a</p> <p>15 telephone call? Was it in-person? Like where</p> <p>16 were you physically in relation to the board?</p> <p>17 A. I believe I was at home.</p> <p>18 Q. Okay. Can you identify every person</p> <p>19 that you recall who was present for this</p> <p>20 disclosure other than – other than the board</p> <p>21 members themselves?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I don't recall everyone on the call.</p> <p>25 Q. Can you identify anybody who was on</p>
<p style="text-align: right;">Page 192</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the call?</p> <p>3 A. Other than the board members?</p> <p>4 Q. Yes.</p> <p>5 A. Lauren Thedford. I mean, there</p> <p>6 are – there are many – my section is just one</p> <p>7 of many sections that are just – you know, as</p> <p>8 you can appreciate, this is a long board</p> <p>9 meeting.</p> <p>10 I can't recall specifically, really</p> <p>11 even generally, or who was on when this was</p> <p>12 discussed. But Lauren was typically on for the</p> <p>13 entire time.</p> <p>14 Q. I apologize if I asked you this, but</p> <p>15 do either of Mr. Norris or Mr. Post hold any</p> <p>16 positions relative to the retail funds?</p> <p>17 A. I think you asked me this already,</p> <p>18 John.</p> <p>19 Q. Okay. I just don't recall. Can you</p> <p>20 just refresh my recollection if I did, in fact,</p> <p>21 ask you the question?</p> <p>22 A. I don't believe – if we can go</p> <p>23 back. I don't believe Mr. Norris has a title</p> <p>24 at the retail funds. Mr. – and Mr. Post is</p> <p>25 the CCO of the advisor, the advisors.</p>	<p style="text-align: right;">Page 193</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Do you know if either of them</p> <p>3 have a position with the retail board – with</p> <p>4 the retail funds?</p> <p>5 A. I don't believe Mr. Norris has a</p> <p>6 position with the retail funds.</p> <p>7 Q. All right. What about Mr. Post?</p> <p>8 A. Mr. Post is the CCO of the advisors.</p> <p>9 Q. Okay. Does he hold any position –</p> <p>10 A. I don't believe so.</p> <p>11 Q. – with the retail funds?</p> <p>12 A. I don't believe so.</p> <p>13 Q. Okay.</p> <p>14 A. I don't know if being the CCO for</p> <p>15 the advisor conveys something for the retail</p> <p>16 funds. Again, I am not – that is the legal</p> <p>17 compliance part of it. I don't know.</p> <p>18 Q. Why did you tell the retail board</p> <p>19 that the advisors have the full faith and</p> <p>20 backing from Mr. Dondero?</p> <p>21 MS. DANDENEAU: Objection to form.</p> <p>22 A. It is – it is – it is what has</p> <p>23 been discussed with them prior.</p> <p>24 Q. And were you – were you trying to</p> <p>25 give them comfort that even though the</p>

<p style="text-align: right;">Page 194</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 liabilities exceeded the assets that the</p> <p>3 advisors would still be able to meet their</p> <p>4 obligations as they become due?</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 MS. DEITSCH-PEREZ: Object form.</p> <p>7 A. I – I can't – I don't remember</p> <p>8 specifically the conversation, but generally –</p> <p>9 you know, generally, yes. And that is why –</p> <p>10 but, you know, again, in this email saying, you</p> <p>11 know, I am sure I qualified it with the retail</p> <p>12 board, you know, as I said I like – you know,</p> <p>13 to my knowledge, that hasn't changed. But,</p> <p>14 again, generally – generally that is what I</p> <p>15 remember.</p> <p>16 Q. Okay. Do you recall if in the</p> <p>17 advisors' response to the retail board's</p> <p>18 question if the response included any statement</p> <p>19 concerning Mr. Dondero and – and the full</p> <p>20 faith and backing that he was giving to the</p> <p>21 advisors?</p> <p>22 MS. DEITSCH-PEREZ: Object to the</p> <p>23 form.</p> <p>24 A. I don't – I don't remember</p> <p>25 specifically what was provided.</p>	<p style="text-align: right;">Page 195</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay.</p> <p>3 A. And I don't really – I don't really</p> <p>4 remember generally either.</p> <p>5 Q. Okay.</p> <p>6 MR. MORRIS: So – so, again, I'm</p> <p>7 just going to ask Mr. Rukavina if your</p> <p>8 clients can produce as soon as possible the</p> <p>9 15(c) response, the written response that</p> <p>10 the advisors made, if any, to the board's</p> <p>11 Question No. 2.</p> <p>12 I'm not looking for the whole</p> <p>13 response, but I certainly want the response</p> <p>14 to Question No. 2.</p> <p>15 Q. Do you have a general understanding</p> <p>16 as to the amount by which – withdrawn.</p> <p>17 Did – did the assets of –</p> <p>18 withdrawn.</p> <p>19 Did the liabilities of HCMFA exceed</p> <p>20 its assets in 2020?</p> <p>21 MS. DANDENEAU: Objection to form.</p> <p>22 MS. DEITSCH-PEREZ: Objection, form.</p> <p>23 A. I believe I have already answered</p> <p>24 that question earlier, I think. I believe I</p> <p>25 said yes.</p>
<p style="text-align: right;">Page 196</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. And did the liabilities of</p> <p>3 NexPoint exceed its assets in 2020?</p> <p>4 MS. DEITSCH-PEREZ: Objection to</p> <p>5 form.</p> <p>6 A. I don't believe so.</p> <p>7 Q. Okay. So – so it was only one of</p> <p>8 the two advisors who had liabilities that</p> <p>9 exceeded the value of the assets.</p> <p>10 Do I have that right?</p> <p>11 MS. DEITSCH-PEREZ: Objection to</p> <p>12 form.</p> <p>13 MS. DANDENEAU: Form.</p> <p>14 A. Yes.</p> <p>15 Q. And do you know, ballpark, the</p> <p>16 amount by which the value of HCMFA's</p> <p>17 liabilities exceeded their assets in 2020?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 A. I don't – I don't recall.</p> <p>20 MR. MORRIS: I had specifically</p> <p>21 requested in discovery the audited</p> <p>22 financial reports for both advisors and</p> <p>23 NexPoint. I think I may have gotten one</p> <p>24 for NexPoint but I'm still waiting for the</p> <p>25 balance. And I'm going to renew my request</p>	<p style="text-align: right;">Page 197</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 for those documents too.</p> <p>3 Q. Let's go to the next exhibit, which</p> <p>4 is Number 10. So I think it is in your stack,</p> <p>5 Mr. Waterhouse.</p> <p>6 MR. MORRIS: And we can take the one</p> <p>7 down from the screen and put up Number 10</p> <p>8 for everybody.</p> <p>9 (Exhibit 10 marked.)</p> <p>10 Q. And I don't know if you have ever</p> <p>11 seen this before, but I'm really putting it up</p> <p>12 on the screen for purposes of turning to the</p> <p>13 very last page of the document.</p> <p>14 So this is a document that we have</p> <p>15 been – that we premarked as Exhibit 10. And</p> <p>16 we're turning to the last page of the document,</p> <p>17 which is a document that was filed in the</p> <p>18 adversary proceeding 21-3004. And – no, I</p> <p>19 apologize, I think we – right there. Perfect.</p> <p>20 And it is page 31 of 31.</p> <p>21 MR. MORRIS: I think there may have</p> <p>22 been some something erroneously stapled to</p> <p>23 the hard copy that I gave you folks, but</p> <p>24 I'm looking for page 31 of 31 in the</p> <p>25 document that begins with the first page of</p>

<p style="text-align: right;">Page 198</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Exhibit 10.</p> <p>3 Q. Do you have that, Mr. Waterhouse?</p> <p>4 A. I don't have it yet. I'm looking.</p> <p>5 Q. All right. If you look at the top</p> <p>6 right-hand corner, you will see it says page</p> <p>7 hopefully something of 31?</p> <p>8 A. Yes, I've got it now.</p> <p>9 Q. Okay. You have got 31 of 31. You</p> <p>10 can take a moment to read that, if you would</p> <p>11 like.</p> <p>12 A. (Reviewing document.) Okay.</p> <p>13 Q. Have you ever seen this before?</p> <p>14 A. I don't know if I have seen this</p> <p>15 specific document, but, you know, I've –</p> <p>16 I'm – I'm aware of it.</p> <p>17 Q. And is this the document that you</p> <p>18 had in mind when you sent that email to</p> <p>19 Ms. Thedford that we just looked at where you</p> <p>20 said that Highland had agreed not to make a</p> <p>21 demand upon HCMFA until May 2021?</p> <p>22 A. Honestly, I don't – it wasn't this</p> <p>23 document. I mean, it's something like this,</p> <p>24 yes. I mean, yes.</p> <p>25 Q. Well –</p>	<p style="text-align: right;">Page 199</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. It is something like this, but I</p> <p>3 don't think it was this specific document.</p> <p>4 Q. Well, but this document does say in</p> <p>5 the last sentence that Highland agreed not to</p> <p>6 seek – not to demand payment from HCMFA prior</p> <p>7 to May 31, 2021; right?</p> <p>8 A. Yes.</p> <p>9 Q. And are you aware of any other</p> <p>10 document that was ever created pursuant to</p> <p>11 which Highland agreed not to demand payment on</p> <p>12 amounts owed by HCMFA before May 31, 2021?</p> <p>13 A. Hold on. Are you asking, am I aware</p> <p>14 of a document that by HCMFA that basically says</p> <p>15 otherwise?</p> <p>16 Q. No. Let me try again.</p> <p>17 Are you aware of any other document</p> <p>18 pursuant to which – pursuant to which Highland</p> <p>19 agreed not to make a demand on HCMFA until May</p> <p>20 31st, 2021?</p> <p>21 A. I'm – I think there was something</p> <p>22 in connection with – with the – with the</p> <p>23 audit that basically says the same thing.</p> <p>24 Q. Okay. And do you think that the</p> <p>25 audit is referring to this particular document?</p>
<p style="text-align: right;">Page 200</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't know.</p> <p>3 Q. All right. This document is dated</p> <p>4 April 15, 2019. Do you see that?</p> <p>5 A. I do.</p> <p>6 Q. And do you remember that the audit</p> <p>7 was completed on June 3rd, 2019?</p> <p>8 A. Yes.</p> <p>9 Q. And do you recall that the audited</p> <p>10 financials – and I'm happy to pull them up if</p> <p>11 you would like, but do you recall that the</p> <p>12 audited financials included a reference to the</p> <p>13 agreement pursuant to which Highland agreed not</p> <p>14 to make a demand until May 31st, 2021?</p> <p>15 A. Yes, I remember.</p> <p>16 Q. And as part of the process, would</p> <p>17 you have expected the corporate accounting team</p> <p>18 to have provided a copy of this document to</p> <p>19 PwC?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. Yes, I would have expected something</p> <p>22 like this, or again, you know, some document</p> <p>23 that basically states – states the deferral</p> <p>24 till May 31 of 2020.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 201</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. May 31 of 2021, excuse me.</p> <p>3 Q. And this document states the</p> <p>4 deferral that you just described; correct?</p> <p>5 A. It does.</p> <p>6 Q. And this document states the</p> <p>7 deferral that was described in the audited</p> <p>8 financial statements that we looked at before;</p> <p>9 correct?</p> <p>10 A. It does.</p> <p>11 MR. MORRIS: Okay. Can we scroll</p> <p>12 down just a little bit to see who signed on</p> <p>13 behalf of the acknowledgment there.</p> <p>14 Q. Okay. So Mr. Dondero signed this</p> <p>15 document on behalf of both HCMFA and Highland;</p> <p>16 do you see that?</p> <p>17 A. I do.</p> <p>18 Q. Okay. Did you discuss this document</p> <p>19 or the – withdrawn.</p> <p>20 Did you discuss the concept of the</p> <p>21 deferral with Mr. Dondero in the spring of</p> <p>22 2019?</p> <p>23 A. I think I testified I don't recall.</p> <p>24 Q. Okay. Do you know whose idea it was</p> <p>25 to issue the acknowledgment in this form?</p>

<p style="text-align: right;">Page 202</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall.</p> <p>3 MR. MORRIS: Can we scroll back up</p> <p>4 to the document, please.</p> <p>5 Q. Do you see in the beginning it says,</p> <p>6 reference is made to certain outstanding</p> <p>7 amounts loaned from Highland to HCMFA for</p> <p>8 funding ongoing operations.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And were you aware as the CFO of</p> <p>12 Highland and as the treasurer of HCMFA that as</p> <p>13 of April 15, 2019, Highland had made certain</p> <p>14 loans to HCMFA to fund HCMFA's ongoing</p> <p>15 operations?</p> <p>16 A. Yes.</p> <p>17 Q. And were you aware that those loans</p> <p>18 were payable on demand and remained outstanding</p> <p>19 as of December 31st, 2018?</p> <p>20 A. Yes.</p> <p>21 Q. And were you aware that those</p> <p>22 amounts were payable on demand, and they</p> <p>23 remained outstanding as of April 15, 2019?</p> <p>24 MS. DEITSCH-PEREZ: Object to the</p> <p>25 form.</p>	<p style="text-align: right;">Page 203</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Well, this – this document dated</p> <p>3 April 15, 2019 says they have been deferred to</p> <p>4 May 31, 2021.</p> <p>5 Q. Right. But I'm just sticking to the</p> <p>6 first paragraph where they refer to the</p> <p>7 outstanding amounts. And in the end it says</p> <p>8 the – it remained outstanding on December</p> <p>9 31st, 2018, and I think you told me that you</p> <p>10 understood that, and then I'm just trying to</p> <p>11 capture the last piece of it.</p> <p>12 Did you understand that there were</p> <p>13 amounts outstanding from the loan that Highland</p> <p>14 made to HCMFA to fund ongoing operations as of</p> <p>15 April 15th, 2019?</p> <p>16 A. Yes.</p> <p>17 Q. Thank you. Let's look at the next</p> <p>18 sentence. HCMFA expects that it may be unable</p> <p>19 to repay such amounts should they become due</p> <p>20 for the period commencing today and continuing</p> <p>21 through May 31st, 2021.</p> <p>22 Do you see that?</p> <p>23 MS. DANDENEAU: Objection to form.</p> <p>24 A. I do.</p> <p>25 Q. As the CFO – withdrawn.</p>
<p style="text-align: right;">Page 204</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 As the treasurer of HCMFA, did you</p> <p>3 believe that – do you believe that statement</p> <p>4 was true and accurate at the time it was</p> <p>5 rendered?</p> <p>6 A. I mean, it – it – the answer to</p> <p>7 that is I really didn't have any – I didn't</p> <p>8 have an opinion really.</p> <p>9 Q. Did you do anything to educate</p> <p>10 yourself in April of 2019 on the issue of</p> <p>11 whether HCMFA could repay the amounts that it</p> <p>12 owed to Highland should they become due?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Did you at any time form any</p> <p>15 opinions as to HCMFA's ability to repay all</p> <p>16 amounts due to Highland should they become due?</p> <p>17 A. Not really. I guess I don't...</p> <p>18 Q. Well, you told the retail board that</p> <p>19 HCMFA's liabilities exceeded their assets in</p> <p>20 2020; correct?</p> <p>21 A. Yes.</p> <p>22 Q. Based on the work that you did to</p> <p>23 prepare for the retail board, did you form any</p> <p>24 view as to whether HCMFA would be unable to</p> <p>25 repay the amounts that it owed to Highland</p>	<p style="text-align: right;">Page 205</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 should they become due?</p> <p>3 MS. DANDENEAU: Objection to form.</p> <p>4 A. I mean, I – when you look at that,</p> <p>5 to answer you, completely, you know, again,</p> <p>6 if – the response I gave the retail board was,</p> <p>7 you know, the – the advice – HCMFA advisors</p> <p>8 have the – have the full faith and backing of</p> <p>9 Jim Dondero. So I didn't form an opinion of</p> <p>10 whether the advisor could pay it or not.</p> <p>11 Q. Did you form any view as to whether</p> <p>12 the advisors could repay the amounts that it</p> <p>13 owed to Highland should they become due without</p> <p>14 the full faith and backing of Mr. Dondero?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 MS. DEITSCH-PEREZ: Form.</p> <p>17 A. I mean, if you – if you – if you</p> <p>18 take that last statement out, I mean, it would</p> <p>19 be difficult for HCMFA to pay back demand notes</p> <p>20 at that time.</p> <p>21 Q. And it was precisely for that reason</p> <p>22 that you told the retail board that – that the</p> <p>23 retail – that the advisors had the full faith</p> <p>24 and backing of Mr. Dondero; correct?</p> <p>25 MS. DANDENEAU: Objection to form.</p>

<p style="text-align: right;">Page 206</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I mean, yes, as the mouthpiece, I</p> <p>3 was relaying information.</p> <p>4 Q. Okay. And you relayed that</p> <p>5 information with the knowledge and approval of</p> <p>6 Mr. Dondero; correct?</p> <p>7 MS. DEITSCH-PEREZ: Object to the</p> <p>8 form.</p> <p>9 A. As I stated in the email, I don't</p> <p>10 believe, and I think I testified I don't</p> <p>11 believe I had conversations with Mr. Dondero at</p> <p>12 the time of that board meeting.</p> <p>13 Q. Did you tell the retail board that</p> <p>14 the advisors had the full faith and backing of</p> <p>15 Mr. Dondero without Mr. Dondero's prior</p> <p>16 approval?</p> <p>17 A. Yeah, I – I – yes, I'm – like I</p> <p>18 said, I think I testified earlier, I'm sure I</p> <p>19 qualified it as well.</p> <p>20 Q. What do you mean by that?</p> <p>21 MS. DANDENEAU: Objection to form.</p> <p>22 A. Again – again, like I said in the</p> <p>23 email, it has the full faith and backing of Jim</p> <p>24 Dondero unless that has changed.</p> <p>25 Q. Actually that is not what you said,</p>	<p style="text-align: right;">Page 207</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 so let's put the email back up.</p> <p>3 A. It is – it is – it is in the</p> <p>4 email.</p> <p>5 Q. Let's put the email back up. You</p> <p>6 didn't say unless it has changed. You said you</p> <p>7 believe it hasn't changed; right?</p> <p>8 A. Okay. And to my knowledge that</p> <p>9 hasn't changed, that is what it says.</p> <p>10 Q. That's right.</p> <p>11 A. But, again, I mean, that is – I</p> <p>12 don't know everything. And I'm not in every</p> <p>13 conversation. I'm not – to presume that I am,</p> <p>14 is – and you have to put myself – as you</p> <p>15 started this out, Mr. Morris, I was at home in</p> <p>16 October of 2020 with COVID – or, you know,</p> <p>17 under these COVID times that we described is</p> <p>18 very difficult.</p> <p>19 We have all been working at home for</p> <p>20 really the first time ever, undergoing</p> <p>21 processes, procedures, control environments</p> <p>22 that have been untested, and there is poor</p> <p>23 communication.</p> <p>24 So I am relaying, as I'm telling you</p> <p>25 now, what is in the email. And unless</p>
<p style="text-align: right;">Page 208</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 something has changed – to my knowledge, it</p> <p>3 hasn't changed, but it could have changed.</p> <p>4 Q. When you say that the advisors have</p> <p>5 the full faith and backing from Mr. Dondero,</p> <p>6 did you intend to convey that, to the extent</p> <p>7 the advisors were unable to satisfy their</p> <p>8 obligations as they become due, Mr. Dondero</p> <p>9 would do it for them?</p> <p>10 MS. DANDENEAU: Object to the form.</p> <p>11 MS. DEITSCH-PEREZ: Object to the</p> <p>12 form.</p> <p>13 And, John, we have given you a lot</p> <p>14 of leeway here but this does not seem</p> <p>15 relevant to this case. You seem sort of</p> <p>16 taking a complete sort of diversion into</p> <p>17 the allegations and the complaint just</p> <p>18 filed on Friday, and so I would ask you to</p> <p>19 move on because –</p> <p>20 MR. MORRIS: And I will tell you –</p> <p>21 I will tell you that I have never read that</p> <p>22 complaint cover-to-cover. I have nothing</p> <p>23 to do with the prosecution of those claims.</p> <p>24 And this issue that we're talking about</p> <p>25 right now is related solely to the</p>	<p style="text-align: right;">Page 209</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 promissory notes that your clients refuse</p> <p>3 to pay.</p> <p>4 So I'm going to continue to ask my</p> <p>5 questions, and I would ask the court</p> <p>6 reporter to read back my last question.</p> <p>7 (Record read.)</p> <p>8 MS. DEITSCH-PEREZ: And then I</p> <p>9 believe there were objections to form.</p> <p>10 Q. You can answer the question.</p> <p>11 A. Yes.</p> <p>12 Q. Thank you very much, sir.</p> <p>13 MR. MORRIS: Can we go back to the</p> <p>14 other document, please?</p> <p>15 Q. Mr. Waterhouse, do you know if this</p> <p>16 document was ever shared with the retail board?</p> <p>17 A. I don't recall.</p> <p>18 Q. Did you ever share it with the</p> <p>19 retail board?</p> <p>20 A. I don't recall.</p> <p>21 Q. Did you ever tell the retail board</p> <p>22 about the substance of this document?</p> <p>23 A. I don't recall.</p> <p>24 Q. Did you ever tell the retail board</p> <p>25 that Highland had agreed not to make a demand</p>

<p style="text-align: right;">Page 210</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 against HCMFA until May 2021?</p> <p>3 A. I don't recall.</p> <p>4 Q. Do you know whether anybody on</p> <p>5 behalf of the advisors ever informed the retail</p> <p>6 board that Highland had agreed on April 15,</p> <p>7 2019, not to make a demand against HCMFA under</p> <p>8 the promissory notes?</p> <p>9 A. I don't recall.</p> <p>10 Q. Did you instruct Ms. Thedford or</p> <p>11 anybody else responding to the retail board's</p> <p>12 15(c) inquiry to disclose this document?</p> <p>13 A. Did I instruct Ms. Thedford or</p> <p>14 anyone else to -- to -- to produce this, to</p> <p>15 disclose this document? Is that what you -- I</p> <p>16 just want to make sure.</p> <p>17 Q. Uh-huh.</p> <p>18 A. Yeah, I don't -- I don't recall.</p> <p>19 Q. Did you instruct anybody to inform</p> <p>20 the retail board, in response to their question</p> <p>21 as part of the 15(c) process, to -- to tell the</p> <p>22 retail board about Highland's agreement not to</p> <p>23 make a demand until 2021?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 211</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did you ever inform PwC that HCMFA's</p> <p>3 liabilities exceeded its assets?</p> <p>4 MS. DANDENEAU: Object to the form.</p> <p>5 A. I don't -- I don't think I told</p> <p>6 them. I mean, they -- they audited the</p> <p>7 financial statements.</p> <p>8 Q. Did -- do you know if anybody on</p> <p>9 behalf of Highland ever informed</p> <p>10 PricewaterhouseCoopers that HCMFA may be unable</p> <p>11 to repay amounts owing to Highland, should they</p> <p>12 become due?</p> <p>13 MS. DANDENEAU: Objection to form.</p> <p>14 A. Yes. Again, I think I testified</p> <p>15 earlier that -- that this was communicated to</p> <p>16 the auditors.</p> <p>17 Q. Ideally --</p> <p>18 A. I don't know who exactly did that.</p> <p>19 I don't recall doing it, but, yeah, it was --</p> <p>20 it was communicated. And that is why -- I</p> <p>21 mean, there is a disclosure in the financial</p> <p>22 statements; right?</p> <p>23 Q. There is, and that disclosure</p> <p>24 relates to the last sentence of this document;</p> <p>25 correct?</p>
<p style="text-align: right;">Page 212</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. Do you recall looking in the</p> <p>4 document and seeing anything that was disclosed</p> <p>5 with respect to the sentence above that?</p> <p>6 A. No.</p> <p>7 Q. Do you know whether anybody on</p> <p>8 behalf of Highland ever informed</p> <p>9 PricewaterhouseCoopers that HCMFA expects that</p> <p>10 it may be unable to repay amounts due and owing</p> <p>11 to Highland should they become due?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form. I think that is the third time.</p> <p>14 A. I don't recall. Again, as I said,</p> <p>15 we -- all of this was given to the auditors.</p> <p>16 Q. Do you know if Highland received</p> <p>17 anything of value in exchange for its agreement</p> <p>18 not to demand payment on amounts owed by HCMFA</p> <p>19 prior to May 31st, 2021?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form. That is the second time.</p> <p>22 MS. DANDENEAU: Object to the form.</p> <p>23 A. I have answered this question.</p> <p>24 MR. RUKAVINA: Hold on. Object to</p> <p>25 legal conclusion. Go ahead.</p>	<p style="text-align: right;">Page 213</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I have answered this question</p> <p>3 before.</p> <p>4 Q. And the answer was no?</p> <p>5 A. I'm not aware.</p> <p>6 Q. Now, this acknowledgment can't</p> <p>7 possibly apply to the two notes that you signed</p> <p>8 on behalf of HCMFA because those notes were</p> <p>9 signed on May 2nd and May 3rd, 2019; is that</p> <p>10 right?</p> <p>11 MS. DANDENEAU: Objection to form.</p> <p>12 A. Unless there is a drafting error.</p> <p>13 Q. Okay. Are you aware of a drafting</p> <p>14 error?</p> <p>15 A. I'm not aware. I didn't -- I wasn't</p> <p>16 part of -- I didn't sign this note or this</p> <p>17 acknowledgment. I didn't draft it.</p> <p>18 Q. But you do see it is dated April 15,</p> <p>19 2019; right?</p> <p>20 A. Yes.</p> <p>21 Q. And this was a document that was</p> <p>22 actually included by the advisors in a pleading</p> <p>23 they filed with the Court; right?</p> <p>24 MR. RUKAVINA: Well, I don't know</p> <p>25 that so I object to form.</p>

<p style="text-align: right;">Page 214</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Let's go to the first page of</p> <p>3 the document and just confirm that.</p> <p>4 MR. AIGEN: Mr. Morris, I just note</p> <p>5 that you already said there was some error</p> <p>6 with the document that is listed as</p> <p>7 exhibit –</p> <p>8 MR. MORRIS: No. No, no, no.</p> <p>9 MS. DEITSCH-PEREZ: Oh, okay.</p> <p>10 MR. MORRIS: What I said is that</p> <p>11 there is a few pages that were mistakenly</p> <p>12 stapled to the end of the document.</p> <p>13 MS. DEITSCH-PEREZ: Okay.</p> <p>14 MR. MORRIS: There is no problem</p> <p>15 with this document.</p> <p>16 MS. DEITSCH-PEREZ: And just so</p> <p>17 we're clear that the document – the pages</p> <p>18 that start with defendant's amended answer</p> <p>19 are not intended to be part of this</p> <p>20 document?</p> <p>21 MR. MORRIS: That's correct.</p> <p>22 MS. DEITSCH-PEREZ: And that the –</p> <p>23 but it is your representation that the rest</p> <p>24 of the document is – is – is correct</p> <p>25 because we don't – we don't have any way</p>	<p style="text-align: right;">Page 215</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of verifying that, we're just –</p> <p>3 MR. MORRIS: You do, actually. You</p> <p>4 could just go to Docket No. 21-3004.</p> <p>5 MS. DEITSCH-PEREZ: If you want to</p> <p>6 stop this deposition so we can go and pull</p> <p>7 that document up, we're happy to do it. So</p> <p>8 I am just asking you for your</p> <p>9 representation.</p> <p>10 MR. MORRIS: Sure. I gave that.</p> <p>11 MS. DEITSCH-PEREZ: Okay.</p> <p>12 Q. So do you see that this is a</p> <p>13 document that was actually filed with the Court</p> <p>14 by Highland Capital Management Fund Advisors?</p> <p>15 A. No. I get with the first page in</p> <p>16 the section. Maybe I'm looking at the wrong</p> <p>17 thing. It says, Highland Capital Management.</p> <p>18 Q. Don't worry about it. Don't worry</p> <p>19 about it.</p> <p>20 A. Maybe I went back – okay.</p> <p>21 MR. MORRIS: All right. Can we put</p> <p>22 up on the screen Exhibit 2.</p> <p>23 (Exhibit 2 marked.)</p> <p>24 MR. MORRIS: I think it is</p> <p>25 Exhibit 1.</p>
<p style="text-align: right;">Page 216</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: I'm sorry, John, did</p> <p>3 you say Exhibit 2 or Exhibit 1?</p> <p>4 MR. MORRIS: It is Exhibit 2 in the</p> <p>5 binders so it is premarked Exhibit 2. And</p> <p>6 now I'm asking – right there – going to</p> <p>7 Exhibit 1 to the document that was marked</p> <p>8 as Exhibit 2.</p> <p>9 MS. DANDENEAU: Got it. In the</p> <p>10 binder there is no –</p> <p>11 MS. DEITSCH-PEREZ: There is no</p> <p>12 Exhibit 1.</p> <p>13 MR. MORRIS: All right. So look at</p> <p>14 the one on the screen.</p> <p>15 Q. Do you see, Mr. Waterhouse, that</p> <p>16 this is a promissory note dated May 31st, 2017,</p> <p>17 in the approximate amount of \$30.7 million?</p> <p>18 A. Yes.</p> <p>19 Q. And do you see that the maker of the</p> <p>20 note is NexPoint?</p> <p>21 A. Yes.</p> <p>22 Q. And that Highland is the payee; is</p> <p>23 that right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And do you see in Paragraph 2</p>	<p style="text-align: right;">Page 217</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 this is an annual installment note?</p> <p>3 A. Can you scroll down.</p> <p>4 Q. Sure.</p> <p>5 MR. MORRIS: Can we scroll down –</p> <p>6 yeah, there you go.</p> <p>7 A. Right there, yeah. Yes.</p> <p>8 MR. MORRIS: And can we scroll down</p> <p>9 to the signature line.</p> <p>10 Q. And do you recognize that as</p> <p>11 Mr. Dondero's signature?</p> <p>12 A. Yes.</p> <p>13 Q. And is this the promissory note that</p> <p>14 we talked about earlier where NexPoint had made</p> <p>15 certain payments in the aggregate amount of</p> <p>16 about 6 to \$7 million against principal and</p> <p>17 interest?</p> <p>18 A. I don't recall discussing the</p> <p>19 aggregate principal amounts of 6 to \$7 million,</p> <p>20 but – so I don't – I don't recall that prior</p> <p>21 discussion with those amounts.</p> <p>22 Q. All right. Let's take a look.</p> <p>23 NexPoint always included this promissory note</p> <p>24 as a liability on its audited financial</p> <p>25 statements; right?</p>

<p style="text-align: right;">Page 218</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. And NexPoint had its financial</p> <p>4 statements audited; isn't that correct?</p> <p>5 A. Yes.</p> <p>6 Q. And was the process of NexPoint's</p> <p>7 audit similar to the process you described</p> <p>8 earlier for Highland and HCMFA?</p> <p>9 A. Yes, it is similar.</p> <p>10 Q. Okay.</p> <p>11 MR. MORRIS: Can we put up</p> <p>12 NexPoint's audited financials and let</p> <p>13 everybody know what exhibit number it is,</p> <p>14 La Asia?</p> <p>15 MS. CANTY: It is going to be</p> <p>16 Exhibit 46.</p> <p>17 (Exhibit 46 marked.)</p> <p>18 Q. And do you see, sir, that we've put</p> <p>19 up NexPoint Advisors' consolidated financial</p> <p>20 statements and supplemental information for the</p> <p>21 period ending December 31st, 2019?</p> <p>22 A. Yes.</p> <p>23 Q. Did you participate in the process</p> <p>24 whereby these audited financial statements were</p> <p>25 issued?</p>	<p style="text-align: right;">Page 219</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I didn't participate directly, as</p> <p>3 I've described before, about the -- the team</p> <p>4 performing the audit.</p> <p>5 Q. Do you recall when the audit of</p> <p>6 NexPoint's financial statements for the period</p> <p>7 ending December 31st, 2019 was completed?</p> <p>8 A. Yes.</p> <p>9 Q. And when do you recall it being</p> <p>10 completed?</p> <p>11 A. In January of 2021.</p> <p>12 Q. Do you know why the 2019 audit</p> <p>13 report wasn't completed until January of 2021?</p> <p>14 A. Yes.</p> <p>15 Q. Why was the NexPoint audit report</p> <p>16 for the period ending 12/31/19 not completed</p> <p>17 until January 2021?</p> <p>18 A. Because we had to deal with working</p> <p>19 from home from -- with COVID, and on top of all</p> <p>20 of our daily responsibilities and job duties</p> <p>21 at -- at providing -- at Highland providing</p> <p>22 services to NexPoint, we had to do all of this</p> <p>23 extra work for a bankruptcy that was filed in</p> <p>24 October of 2019.</p> <p>25 MR. MORRIS: Can we go to the</p>
<p style="text-align: right;">Page 220</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 balance sheet on page 3? Okay. Stop right</p> <p>3 there.</p> <p>4 Q. Do you see under the liabilities</p> <p>5 section, the last item is note payable to</p> <p>6 affiliate?</p> <p>7 A. Yes.</p> <p>8 Q. And is that the note that we just</p> <p>9 looked at?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 Q. Withdrawn.</p> <p>12 Is that the approximately</p> <p>13 \$30 million note that we just looked at that</p> <p>14 was dated from 2017?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. I believe no.</p> <p>17 Q. Okay. You're not aware of any other</p> <p>18 note that was outstanding from NexPoint to</p> <p>19 Highland as of the end of the year 2019, other</p> <p>20 than that one \$30 million note; right?</p> <p>21 A. I don't recall.</p> <p>22 Q. And as of the end of 2019, the</p> <p>23 principal amount that was due on the note was</p> <p>24 approximately \$23 million; right?</p> <p>25 MS. DEITSCH-PEREZ: Object to the</p>	<p style="text-align: right;">Page 221</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 form.</p> <p>3 A. Approximately.</p> <p>4 Q. And does that refresh your</p> <p>5 recollection that between the time the note was</p> <p>6 executed and the end of 2019, that NexPoint had</p> <p>7 paid down approximately \$7 million?</p> <p>8 A. Yes. If we are just doing the math,</p> <p>9 yes.</p> <p>10 Q. Okay. Did NexPoint complete its</p> <p>11 audit from 2020?</p> <p>12 A. Sorry, you kind of broke up. Do</p> <p>13 NexPoint complete?</p> <p>14 Q. The audit of its financial</p> <p>15 statements for the period ending December 31st,</p> <p>16 2020?</p> <p>17 A. No.</p> <p>18 Q. No, it's not complete?</p> <p>19 A. No, it is not complete.</p> <p>20 Q. Did HCMFA complete its audit for the</p> <p>21 year ending December 31st, 2020?</p> <p>22 A. No.</p> <p>23 MR. MORRIS: Can we go to page 15,</p> <p>24 please, the paragraph at the bottom.</p> <p>25 Q. Do you see that NexPoint has</p>

<p style="text-align: right;">Page 222</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 included under notes payable to Highland a</p> <p>3 reference to the amounts that were outstanding</p> <p>4 as of the year-end 2019 under the note that we</p> <p>5 looked at just a moment ago?</p> <p>6 A. Yes. Are you talking about the</p> <p>7 second paragraph?</p> <p>8 Q. I'm actually talking about first</p> <p>9 paragraph. Do you understand that the first</p> <p>10 paragraph is a reference to the 2017 note, and</p> <p>11 the amounts that were -- the principal amount</p> <p>12 that was outstanding as of the end of 2019?</p> <p>13 MS. DANDENEAU: Objection to form.</p> <p>14 John, do you mean the first paragraph of</p> <p>15 that page?</p> <p>16 MR. MORRIS: No, the first paragraph</p> <p>17 under notes payable to Highland.</p> <p>18 A. Yeah, I see the paragraph, and</p> <p>19 again, this is what I answered earlier. I</p> <p>20 believe so, just because I don't -- again, this</p> <p>21 is a number in a balance sheet, and without</p> <p>22 matching it up and seeing the detail with the</p> <p>23 schedule like I kind of talked about for</p> <p>24 Highland's financial statements, it is a little</p> <p>25 bit more difficult to tie everything in</p>	<p style="text-align: right;">Page 223</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 perfectly together.</p> <p>3 Q. Okay. But you're not aware of any</p> <p>4 note that was outstanding at the end of 2019</p> <p>5 from NexPoint to Highland other than whatever</p> <p>6 principal was still due and owing under the</p> <p>7 \$30 million note issued in 2017; correct?</p> <p>8 A. Well, it -- I don't -- there is</p> <p>9 reference in the second paragraph. I don't --</p> <p>10 I don't -- I don't recall what that is</p> <p>11 referring to, so I don't -- I don't know.</p> <p>12 Q. Well, if you listen carefully to my</p> <p>13 question, right, I'm asking about notes that</p> <p>14 were outstanding at the end of 2019, and if we</p> <p>15 look at the paragraph you just referred to, it</p> <p>16 says that during the year there were new notes</p> <p>17 issued totaling \$1.5 million, but by the end of</p> <p>18 the year, no principal or interest was</p> <p>19 outstanding on the notes.</p> <p>20 Do you see that?</p> <p>21 A. Oh, I do, yes.</p> <p>22 Q. So does that refresh your</p> <p>23 recollection that there were no notes</p> <p>24 outstanding from NexPoint to Highland other</p> <p>25 than the principal remaining under the original</p>
<p style="text-align: right;">Page 224</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 \$30 million 2017 note that we looked at a</p> <p>3 moment ago?</p> <p>4 A. Well, we're at the bottom of the</p> <p>5 page. Is there anything on page 16?</p> <p>6 Q. That is a fair question, sure. That</p> <p>7 is it.</p> <p>8 A. Okay. So it appears that that is</p> <p>9 the only note that is detailed in the notes in</p> <p>10 the financial statement.</p> <p>11 Q. And you don't have any memory of any</p> <p>12 other note other than the 2017 note, right,</p> <p>13 being outstanding as of the end of the year?</p> <p>14 A. I deal with thousands of</p> <p>15 transactions every year. I don't really have a</p> <p>16 very specific memory for what exactly was</p> <p>17 outstanding.</p> <p>18 MR. MORRIS: Why don't we take a</p> <p>19 break now. We've been going for a little</p> <p>20 while. It's 3:26. Let's come back at</p> <p>21 3:40.</p> <p>22 VIDEOGRAPHER: We're going off the</p> <p>23 record at 3:26 p.m.</p> <p>24 (Recess taken 3:26 p.m. to 3:39 p.m.)</p> <p>25 VIDEOGRAPHER: We are going back on</p>	<p style="text-align: right;">Page 225</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the record at 3:39 p.m.</p> <p>3 Q. All right. Mr. Waterhouse, we -- I</p> <p>4 don't think we have a lot more here.</p> <p>5 To the best of your knowledge and</p> <p>6 recollection, were all affiliate loans and all</p> <p>7 loans made to Mr. Dondero recorded on</p> <p>8 Highland's books and records as assets of</p> <p>9 Highland?</p> <p>10 MS. DANDENEAU: Object to the form,</p> <p>11 asked and answered.</p> <p>12 A. To my knowledge, yes.</p> <p>13 Q. Okay. Can you recall any loan to</p> <p>14 any affiliate or Mr. Dondero that was not</p> <p>15 recorded on Highland's books and records as an</p> <p>16 asset?</p> <p>17 A. Like during my time as CFO? I don't</p> <p>18 recall.</p> <p>19 Q. How about after the time that you</p> <p>20 were CFO? Did you recall that there was a loan</p> <p>21 by Highland to an affiliate or to Mr. Dondero</p> <p>22 that hadn't been previously recorded on</p> <p>23 Highland's books as an asset?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. I guess I don't understand the</p>

<p style="text-align: right;">Page 226</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 question. I left Highland as of – I'm not</p> <p>3 aware of – I left Highland in February –</p> <p>4 probably the last day of February of 2021.</p> <p>5 Q. Okay.</p> <p>6 A. I'm not – I'm not aware of any –</p> <p>7 I'm not aware of anything past that date.</p> <p>8 Q. Okay. While you were the CFO at</p> <p>9 Highland, did Highland prepare in the ordinary</p> <p>10 course of business a document that reported</p> <p>11 operating results on a monthly basis?</p> <p>12 A. Yes.</p> <p>13 Q. And are you generally familiar with</p> <p>14 the monthly operating reports?</p> <p>15 A. Yeah. You are referring to the</p> <p>16 reports that we filed to the Court every month?</p> <p>17 Q. I apologize, I'm not. I'm taking</p> <p>18 you back to the pre-petition period. There was</p> <p>19 a report that I have seen that I'm going to</p> <p>20 show you, but I'm just asking for your</p> <p>21 knowledge.</p> <p>22 MR. MORRIS: Let's put it up on the</p> <p>23 screen, Exhibit 39.</p> <p>24 (Exhibit 39 marked.)</p> <p>25 Q. Do you see this is a document that</p>	<p style="text-align: right;">Page 227</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 is called operating results?</p> <p>3 A. Yeah, that's the title of it.</p> <p>4 Q. Okay. And was a report of operating</p> <p>5 results prepared by Highland on a monthly basis</p> <p>6 during the time that you served as CFO?</p> <p>7 A. No.</p> <p>8 Q. Are you familiar with a document of</p> <p>9 this type? And we can certainly look at the</p> <p>10 next page or two to refresh your recollection.</p> <p>11 A. I'm just looking at the title. I</p> <p>12 don't really – again, as I discussed before, I</p> <p>13 don't have any records or documents or emails</p> <p>14 or appointments or anything that I was able to</p> <p>15 use prior to – prior to this deposition, so</p> <p>16 I'm doing the best I can.</p> <p>17 Q. Okay. You don't need to apologize.</p> <p>18 I'm just asking you if you are familiar with</p> <p>19 the document called Operating Results that was</p> <p>20 prepared on a monthly basis at Highland?</p> <p>21 MS. DEITSCH-PEREZ: Object to the</p> <p>22 form.</p> <p>23 Q. If you're not, you're not.</p> <p>24 A. I don't believe this was prepared on</p> <p>25 a monthly basis.</p>
<p style="text-align: right;">Page 228</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Do you see that this one</p> <p>3 is – is dated February 2018?</p> <p>4 A. Yes.</p> <p>5 Q. Do you have – do you believe –</p> <p>6 have you ever seen a document that was</p> <p>7 purporting to report operating results for</p> <p>8 Highland?</p> <p>9 MS. DANDENEAU: Objection to form.</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And when you say that you</p> <p>12 don't believe it was produced on a monthly</p> <p>13 basis, was it produced on any periodic bases to</p> <p>14 the best of your recollection?</p> <p>15 A. I believe it was – it was prepared</p> <p>16 on an annual basis.</p> <p>17 Q. Okay.</p> <p>18 MR. MORRIS: Can we look at the next</p> <p>19 page.</p> <p>20 Q. Do you see that there is a statement</p> <p>21 here called: Significant items impacting</p> <p>22 HCMLP's balance sheet?</p> <p>23 And it is dated February 2018.</p> <p>24 A. Yes.</p> <p>25 Q. Do you recall that there was a</p>	<p style="text-align: right;">Page 229</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 report that Highland prepared that identified</p> <p>3 significant items impacting the balance sheet?</p> <p>4 A. A report that was prepared.</p> <p>5 Q. Let me ask a better question: Did</p> <p>6 Highland prepare reports to the best of your</p> <p>7 recollection that identified significant items</p> <p>8 that impacted its balance sheet?</p> <p>9 A. Well, so Highland prepared a – a</p> <p>10 monthly close package. And maybe I'm</p> <p>11 getting – and – and maybe change names at one</p> <p>12 time or maybe I'm just – again, just</p> <p>13 misremembering – but in that, yes, there is a</p> <p>14 page that would detail just changes in – you</p> <p>15 know, just changes month over month on the</p> <p>16 balance sheet.</p> <p>17 Q. Okay. And maybe it is my fault.</p> <p>18 Maybe I didn't know the proper name for it.</p> <p>19 But let's use the phrase "monthly close</p> <p>20 package."</p> <p>21 Did Highland prepare a monthly close</p> <p>22 package in the ordinary course of business</p> <p>23 during the time that you served as CFO?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 230</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And did the monthly close package</p> <p>3 that Highland prepared include information</p> <p>4 concerning significant items that impacted</p> <p>5 Highland's balance sheet?</p> <p>6 A. Yes, it had a page like that is –</p> <p>7 that is on the screen that detailed items</p> <p>8 like – of that nature.</p> <p>9 Q. And do you know who – was there</p> <p>10 anybody at Highland who was responsible for</p> <p>11 overseeing the preparation of the monthly</p> <p>12 reporting package?</p> <p>13 A. That would have been – again, it</p> <p>14 varies over time during my tenure as CFO.</p> <p>15 It – it varied over – over time, but – but</p> <p>16 typically a – a corporate accounting manager.</p> <p>17 Q. And who were the corporate</p> <p>18 accounting managers during your tenure as CFO?</p> <p>19 A. It would have been Dave Klos and</p> <p>20 Kristin Hendrix.</p> <p>21 Q. And did the corporate accounting</p> <p>22 manager deliver to you drafts of the monthly</p> <p>23 close package before it was finalized?</p> <p>24 A. Sometimes.</p> <p>25 Q. Was that the practice even if there</p>	<p style="text-align: right;">Page 231</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 were exceptions to the practice?</p> <p>3 A. The practice meaning that they</p> <p>4 sometimes lured them to me?</p> <p>5 Q. That that was the expectation even</p> <p>6 if circumstances prevented that from happening</p> <p>7 from time to time.</p> <p>8 MS. DEITSCH-PEREZ: Object to the</p> <p>9 form.</p> <p>10 A. I – I would say it started out that</p> <p>11 way but over the years it – it was not</p> <p>12 enforced.</p> <p>13 Q. Okay. So you were – you reviewed</p> <p>14 and approved monthly – monthly reporting</p> <p>15 packages for a certain period of time and then</p> <p>16 over time you stopped doing that.</p> <p>17 Do I have that right?</p> <p>18 MS. DANDENEAU: Objection to form.</p> <p>19 A. Yes, I mean, if you're talking about</p> <p>20 a formal meeting where we sit down and go</p> <p>21 through and approve it. I would say that was</p> <p>22 standard practice a decade – you know, early</p> <p>23 on. And as time went on that – that – that</p> <p>24 practice wasn't followed.</p> <p>25 Q. Okay.</p>
<p style="text-align: right;">Page 232</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. And, quite frankly, I don't even</p> <p>3 know if these were – these were sent to me</p> <p>4 even in any capacity.</p> <p>5 Q. What was the purpose of preparing</p> <p>6 the monthly reporting package – withdrawn.</p> <p>7 What was the purpose of preparing</p> <p>8 the monthly close package?</p> <p>9 MS. DEITSCH-PEREZ: Object to the</p> <p>10 form.</p> <p>11 A. The – the original purpose was so</p> <p>12 that it would just – it would be a report that</p> <p>13 was reviewed monthly with senior management.</p> <p>14 Q. Who was included in the idea of</p> <p>15 senior management?</p> <p>16 A. You know, I think originally when</p> <p>17 this was conceived that would have been like</p> <p>18 Jim Dondero and Mark Okada.</p> <p>19 Q. Were monthly reporting – withdrawn.</p> <p>20 Were monthly close packages prepared</p> <p>21 to the best of your knowledge until the time</p> <p>22 you left Highland?</p> <p>23 A. To my knowledge – I don't know,</p> <p>24 actually. I mean, to my knowledge, I believe</p> <p>25 it was being – that was still being done. I</p>	<p style="text-align: right;">Page 233</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 don't know because, again, I wasn't reviewing</p> <p>3 them. I hadn't reviewed a close package for –</p> <p>4 for a long time. But I believe the standard</p> <p>5 practice that was still being carried out.</p> <p>6 Q. Did you ever have any discussions</p> <p>7 with the debtor's independent board concerning</p> <p>8 any promissory notes that were issued by any of</p> <p>9 the affiliates or Mr. Dondero?</p> <p>10 A. I can't – I can't – I can't recall</p> <p>11 specifically.</p> <p>12 Q. Did you speak with the independent</p> <p>13 board from time to time?</p> <p>14 A. Yes, from – from – from time to</p> <p>15 time I had discussions with the independent</p> <p>16 board members, you know, either – either, you</p> <p>17 know, by themselves or wholly, you know, as –</p> <p>18 as a – as a combined work.</p> <p>19 Q. Okay. Before we talk about</p> <p>20 Mr. Seery, do you recall ever having a</p> <p>21 conversation with Mr. Nelms or Mr. Dubel</p> <p>22 concerning any promissory note that was</p> <p>23 rendered by one of the affiliates or</p> <p>24 Mr. Dondero to Highland?</p> <p>25 A. I don't recall any conversations</p>

<p style="text-align: right;">Page 234</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 specifically.</p> <p>3 Q. Do you know if the topic was ever</p> <p>4 discussed, even if you don't remember it</p> <p>5 specifically?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 A. It – it – it may have. I don't</p> <p>8 know. I don't recall.</p> <p>9 Q. Do you recall ever discussing any</p> <p>10 promissory note issued by any of the affiliates</p> <p>11 or Mr. Dondero with James Seery?</p> <p>12 A. I don't – I don't recall</p> <p>13 specifically.</p> <p>14 Q. Do you recall generally ever</p> <p>15 discussing the topic of promissory notes issued</p> <p>16 by any of the affiliates or Mr. Dondero to</p> <p>17 Highland with Mr. Seery?</p> <p>18 A. Nothing – nothing is really jumping</p> <p>19 out at me.</p> <p>20 Q. Do you recall if you ever told</p> <p>21 Mr. Seery that any of the affiliates or</p> <p>22 Mr. Dondero didn't have an obligation to pay</p> <p>23 all amounts due and owing under their notes?</p> <p>24 A. I don't recall having that</p> <p>25 conversation.</p>	<p style="text-align: right;">Page 235</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did you ever tell Mr. Seery that you</p> <p>3 had any reason to believe that the amounts</p> <p>4 reflected in the notes issued by the affiliates</p> <p>5 and Mr. Dondero were invalid for any reason?</p> <p>6 A. I don't – I don't recall.</p> <p>7 Q. Did you tell Mr. Dondero – did you</p> <p>8 tell Mr. Seery that you thought the promissory</p> <p>9 notes issued by the advisors and Mr. Dondero</p> <p>10 that were outstanding as of the petition date</p> <p>11 were assets of the estate?</p> <p>12 A. I don't recall having a specific</p> <p>13 conversation about those – you know, those</p> <p>14 notes outstanding as – as of the petition date</p> <p>15 being assets on the estate. I mean, we put</p> <p>16 together – you know, they're in the books and</p> <p>17 records of the financial statements. I don't</p> <p>18 recall having a specific conversation.</p> <p>19 Q. Did you ever prepare any documents</p> <p>20 that were delivered to Mr. Seery that concerned</p> <p>21 the promissory notes issued by any of the</p> <p>22 affiliates or Mr. Dondero?</p> <p>23 MS. DANDENEAU: Objection to form.</p> <p>24 A. Did I produce any that concerned –</p> <p>25 you mean did I just – did I give Mr. Seery</p>
<p style="text-align: right;">Page 236</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 anything that – that said I have concerns over</p> <p>3 these notes?</p> <p>4 Q. No. Let me try again. Maybe it was</p> <p>5 my question.</p> <p>6 Did you ever give Mr. Seery any</p> <p>7 information concerning any of the notes that</p> <p>8 were issued by any of the affiliates or</p> <p>9 Mr. Dondero?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. I don't recall if I did or not. I</p> <p>12 don't – I don't remember. I mean, you have my</p> <p>13 emails. You may have asked. Again, I don't –</p> <p>14 I don't know.</p> <p>15 MR. MORRIS: Can we put up the</p> <p>16 document that has been premarked as Exhibit</p> <p>17 39?</p> <p>18 MS. DANDENEAU: John, that is this</p> <p>19 document, isn't it?</p> <p>20 MR. MORRIS: Oh, yeah, it might be,</p> <p>21 as a matter of fact. Let's go to Number</p> <p>22 40.</p> <p>23 (Exhibit 40 marked.)</p> <p>24 Q. During the bankruptcy,</p> <p>25 Mr. Waterhouse, did you prepare documents that</p>	<p style="text-align: right;">Page 237</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 were filed with the bankruptcy court?</p> <p>3 A. I didn't – I didn't prepare them</p> <p>4 personally.</p> <p>5 Q. Did people prepare them under your</p> <p>6 direction?</p> <p>7 A. Yes. There were members of the team</p> <p>8 that prepared them, and they worked in – you</p> <p>9 know, there were members of DSI that were</p> <p>10 involved in the process as well.</p> <p>11 Q. To the best of your knowledge, did</p> <p>12 DSI rely on the employees of Highland for the</p> <p>13 information that they used to prepare the</p> <p>14 bankruptcy filings?</p> <p>15 A. Yes. The books and records were</p> <p>16 with the Highland personnel.</p> <p>17 Q. Okay. And do you see on the screen</p> <p>18 here, there is a document that we have marked</p> <p>19 as Exhibit 40 that is – that is titled Summary</p> <p>20 of Assets and Liabilities?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Okay. And do you recall reviewing</p> <p>23 any summary of assets and liabilities before it</p> <p>24 was filed with the bankruptcy court?</p> <p>25 A. Yes, I recall reviewing this at a</p>

<p style="text-align: right;">Page 238</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 high level.</p> <p>3 Q. And did you believe that it was</p> <p>4 accurate at the time it was filed?</p> <p>5 A. I didn't have any other reason to</p> <p>6 believe otherwise.</p> <p>7 Q. Okay. Do you see that the total</p> <p>8 value of all properties listed in Part 1 is</p> <p>9 approximately \$410 million?</p> <p>10 MS. DEITSCH-PEREZ: Objection to</p> <p>11 form.</p> <p>12 A. Yes, it is in 1c.</p> <p>13 Q. Yes.</p> <p>14 A. Yes, I see that.</p> <p>15 Q. Okay. If we go to the second page,</p> <p>16 now I think I may just have excerpts here, just</p> <p>17 so everybody is clear, but if we scroll down to</p> <p>18 the second page, you will see that there is</p> <p>19 a – a little further. There you go. You will</p> <p>20 see there is a reference to Item 71, notes</p> <p>21 receivable.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. And that was a reference to the</p> <p>25 notes receivable from the affiliates and</p>	<p style="text-align: right;">Page 239</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Mr. Dondero, among others; is that right?</p> <p>3 MS. DANDENEAU: Objection to form.</p> <p>4 A. Yes. The affiliate notes and the</p> <p>5 Dondero notes were in this amount, but they</p> <p>6 weren't – again, like you said, and among</p> <p>7 others.</p> <p>8 Q. Okay. We will look at the</p> <p>9 specificity because I'm not playing gaming</p> <p>10 here, but do you know if the \$150 million of</p> <p>11 notes receivable was included within the</p> <p>12 \$410 million of total value of the debtor's</p> <p>13 assets?</p> <p>14 MS. DANDENEAU: Objection to form.</p> <p>15 A. I – I – I believe so.</p> <p>16 Q. Right. And so is it fair to say</p> <p>17 that as of the date this document was prepared,</p> <p>18 the notes receivable were more than one-third</p> <p>19 of the value of the debtor's assets?</p> <p>20 MS. DEITSCH-PEREZ: Object to the</p> <p>21 form.</p> <p>22 MS. DANDENEAU: Object to the form.</p> <p>23 A. Again, if you are just taking the</p> <p>24 math, 150 divided by whatever the \$400 million</p> <p>25 number is above, then yes, you get there.</p>
<p style="text-align: right;">Page 240</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay.</p> <p>3 A. You know, but as of the time of this</p> <p>4 filing, that is what was put in this filing,</p> <p>5 right, but, you know, I mean, numbers –</p> <p>6 numbers change, facts and circumstances change.</p> <p>7 Q. But as the CFO of Highland, the</p> <p>8 debtor in bankruptcy, did you believe that this</p> <p>9 number accurately reflected the total amount</p> <p>10 due under the notes receivable?</p> <p>11 A. That is what we had in our books and</p> <p>12 records.</p> <p>13 Q. Okay. And did you believe as the</p> <p>14 CFO that the books and records accurately</p> <p>15 reported the then value of the debtor's assets?</p> <p>16 MS. DANDENEAU: Objection to form.</p> <p>17 A. We didn't – as part of this filing,</p> <p>18 there was no fair value measurement or</p> <p>19 anything. These were just accounting entries</p> <p>20 for the promissory notes. There is no analysis</p> <p>21 for impairment or fair market value adjustments</p> <p>22 or anything of that nature. This is purely</p> <p>23 taking numbers and putting them in our form.</p> <p>24 Q. Did you do any impairment analysis</p> <p>25 at any time while you were employed by</p>	<p style="text-align: right;">Page 241</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Highland?</p> <p>3 A. Yes, we did do impairment analysis</p> <p>4 on – on assets.</p> <p>5 Q. Okay. Did you ever do an impairment</p> <p>6 analysis on any of the promissory notes that</p> <p>7 were given to Highland by any of the affiliates</p> <p>8 or Mr. Dondero?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Under what circumstances do you</p> <p>11 prepare impairment analyses?</p> <p>12 A. As – as – if you're preparing</p> <p>13 financials in accordance with GAAP, generally</p> <p>14 accepted accounting principles, if you're</p> <p>15 preparing full GAAP financials, you should be</p> <p>16 preparing – you should be undergoing on a</p> <p>17 periodic basis any fair market value</p> <p>18 adjustments to assets.</p> <p>19 As I was instructed at the time of</p> <p>20 the petition date, we weren't producing GAAP</p> <p>21 financials. So this wasn't something I was</p> <p>22 worried about nor concerned about.</p> <p>23 Q. Okay. Were NexPoint and HCMFA and</p> <p>24 Highland's audited financial statements</p> <p>25 prepared in accordance with GAAP?</p>

<p style="text-align: right;">Page 242</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. The audited financials – yes,</p> <p>3 audited financial statements are prepared in</p> <p>4 accordance with GAAP.</p> <p>5 Q. Do you recall whether any of</p> <p>6 Highland or HCMFA or NexPoint ever made a fair</p> <p>7 market value adjustment to any of the notes</p> <p>8 issued by any of the affiliates or Mr. Dondero</p> <p>9 to Highland?</p> <p>10 A. I do not recall that happening, but</p> <p>11 the – it is because under – under GAAP,</p> <p>12 the – the treatment of liabilities is</p> <p>13 different than assets.</p> <p>14 Q. Okay. So then let's just focus on</p> <p>15 Highland's audited financial statements.</p> <p>16 The last audited financial</p> <p>17 statements were for the period ending December</p> <p>18 31st, 2018; correct?</p> <p>19 A. That is my understanding.</p> <p>20 Q. And you had – you had an obligation</p> <p>21 to disclose anything to PricewaterhouseCoopers</p> <p>22 concerning any subsequent events between the</p> <p>23 end of 2018 and June 3rd, 2019; correct?</p> <p>24 MS. DANDENEAU: Objection to form.</p> <p>25 MS. DEITSCH-PEREZ: Form.</p>	<p style="text-align: right;">Page 243</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Correct.</p> <p>3 Q. Okay. To the best of your</p> <p>4 knowledge, as Highland's CFO, did Highland ever</p> <p>5 make any fair market value adjustments to any</p> <p>6 of the promissory notes that were carried on</p> <p>7 its balance sheet and that were issued by any</p> <p>8 of the affiliates or Mr. Dondero?</p> <p>9 A. I think I answered that question</p> <p>10 earlier. I don't recall doing that for any of</p> <p>11 the – those – those notes. So it would have</p> <p>12 included the audit for the – for the 2018</p> <p>13 period.</p> <p>14 Q. Okay.</p> <p>15 MR. MORRIS: Can we go to the next</p> <p>16 page.</p> <p>17 Q. Do you see this is a note a list of</p> <p>18 notes receivable? Do you see that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And do you see that this ties into</p> <p>21 the page that we were just looking?</p> <p>22 A. I'm sorry, can we go back to the</p> <p>23 prior page? I mean, it was at 150,331,222. It</p> <p>24 was on the prior page. Next page. Yes, it</p> <p>25 agrees.</p>
<p style="text-align: right;">Page 244</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. So now let's look at that</p> <p>3 schedule. So this was the face amount of all</p> <p>4 of the promissory notes that Highland held at</p> <p>5 the time this document was filed with the</p> <p>6 bankruptcy court; right?</p> <p>7 A. Yes.</p> <p>8 Q. There is a footnote there that says,</p> <p>9 doubtful or uncollectible accounts are</p> <p>10 evaluated at year-end.</p> <p>11 Do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Okay. And is it fair to say that as</p> <p>14 of the year-end 2018, the year before this,</p> <p>15 that to the extent any of these notes were</p> <p>16 outstanding at that time, they weren't deemed</p> <p>17 to be doubtful or uncollectible?</p> <p>18 A. Yeah. For the 2018 audit, there</p> <p>19 weren't any – there weren't any adjustments to</p> <p>20 fair value.</p> <p>21 Q. Okay. And during the bankruptcy, do</p> <p>22 you recall that Highland subsequently reserved</p> <p>23 for the Hunter Mountain Investment Trust note?</p> <p>24 A. Yes.</p> <p>25 Q. Why did Highland – were you</p>	<p style="text-align: right;">Page 245</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 involved in the decision to reserve the Hunter</p> <p>3 Mountain Investment Trust note?</p> <p>4 A. I was not.</p> <p>5 Q. Do you know why Highland decided to</p> <p>6 reserve for the Hunter Mountain Investment</p> <p>7 Trust note?</p> <p>8 A. I don't know yet decision was made.</p> <p>9 I believe it was made by someone at DSI.</p> <p>10 Q. Okay. I'm just asking if you know</p> <p>11 why.</p> <p>12 Did you ever ask anyone why they</p> <p>13 reserved for that particular note?</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you know whether the debtor</p> <p>16 reserved for any other note on this list during</p> <p>17 the bankruptcy?</p> <p>18 A. Again, I don't recall. I wasn't</p> <p>19 part of any process of – again, like any fair</p> <p>20 value adjustments or anything to that degree.</p> <p>21 Like I said, a lot of that was done by DSI and</p> <p>22 it was kind of out of our court.</p> <p>23 Q. Okay. Do you know if any note</p> <p>24 receivable on this list was ever deemed by the</p> <p>25 debtor to be doubtful or uncollectible?</p>

<p style="text-align: right;">Page 246</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't – I don't have a</p> <p>3 recollection of every filing, so I don't know.</p> <p>4 Q. Did you ever have a discussion with</p> <p>5 anybody at any time about whether any of the</p> <p>6 notes receivable on this list should be deemed</p> <p>7 to be doubtful or uncollectible?</p> <p>8 A. No. As I previously stated, we were</p> <p>9 told we didn't have to keep GAAP financials.</p> <p>10 We weren't having – you know, there is no</p> <p>11 underlying audits being performed, so I mean,</p> <p>12 it wasn't something I worried about.</p> <p>13 MR. MORRIS: I move to strike.</p> <p>14 Q. Did you ever have a conversation</p> <p>15 with anybody about any of the notes receivable</p> <p>16 and whether they should be deemed to be</p> <p>17 doubtful or uncollectible? Did you have the</p> <p>18 conversation, yes or no?</p> <p>19 MS. DANDENEAU: Objection to form.</p> <p>20 A. I don't recall.</p> <p>21 Q. Do you recall ever telling anybody</p> <p>22 that you believed any of the notes receivable</p> <p>23 on this list should be doubtful – should be</p> <p>24 deemed to be doubtful or uncollectible?</p> <p>25 MS. DANDENEAU: Objection to form.</p>	<p style="text-align: right;">Page 247</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall. I mean, it may have</p> <p>3 happened, you know, again, when we initially</p> <p>4 getting DSI up to speed and going through</p> <p>5 financials, it may have happened, but I don't</p> <p>6 recall specifically.</p> <p>7 Q. While you were the CFO of Highland</p> <p>8 during the time that the company was in</p> <p>9 bankruptcy, did you have any reason to believe</p> <p>10 that any of the notes receivable on this list</p> <p>11 other than Hunter Mountain Investment Trust</p> <p>12 should have been characterized as doubtful or</p> <p>13 uncollectible?</p> <p>14 MS. DANDENEAU: Objection to form.</p> <p>15 MS. DEITSCH-PEREZ: Form.</p> <p>16 A. I didn't know. I didn't form an</p> <p>17 opinion. Bankruptcy was new to me. It still</p> <p>18 is new to me, even after going through this.</p> <p>19 So I really didn't know what to expect nor</p> <p>20 really – you know, I didn't know.</p> <p>21 MR. MORRIS: I move to strike.</p> <p>22 Q. During the period of Highland's</p> <p>23 bankruptcy when you were serving as CFO, did</p> <p>24 you have any reason to believe any of the notes</p> <p>25 on this list were doubtful or uncollectible?</p>
<p style="text-align: right;">Page 248</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DEITSCH-PEREZ: This is like the</p> <p>3 fifth time you've asked it. Object to the</p> <p>4 form.</p> <p>5 MR. MORRIS: I'm moving to strike,</p> <p>6 if you haven't noticed, because he's not</p> <p>7 answering the question.</p> <p>8 MS. DEITSCH-PEREZ: He was answering</p> <p>9 the question, you just didn't like it, like</p> <p>10 the answer.</p> <p>11 MR. MORRIS: Good Lord.</p> <p>12 Q. Go ahead, Mr. Waterhouse.</p> <p>13 A. Again, I don't – we brought up a</p> <p>14 myriad of issues at the start of the bankruptcy</p> <p>15 case. I don't recall if this was one of them,</p> <p>16 but, again, there are a lot of things we</p> <p>17 couldn't change. Even, you know, I was told</p> <p>18 status quo, blah, blah, blah, right, there is a</p> <p>19 stay, you can't – you know, I don't recall</p> <p>20 specifically, but that doesn't mean it didn't</p> <p>21 happen.</p> <p>22 MR. MORRIS: I move to strike.</p> <p>23 Q. During the time that Highland was in</p> <p>24 bankruptcy and you served as CFO, did you have</p> <p>25 any reason to believe that any of the notes</p>	<p style="text-align: right;">Page 249</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 receivable on this list were doubtful or</p> <p>3 uncollectible?</p> <p>4 MS. DEITSCH-PEREZ: Object to the</p> <p>5 form.</p> <p>6 A. Potentially.</p> <p>7 Q. Did you ever tell anybody that?</p> <p>8 A. As I just stated like five times,</p> <p>9 yes, we – at the beginning after filing and we</p> <p>10 were getting DSI and others up to speed, you</p> <p>11 know, we had a myriad of discussions of a lot</p> <p>12 of things and this was likely one of them. I</p> <p>13 don't – but I don't recall specifically we</p> <p>14 talked –</p> <p>15 Q. I don't want to know – I don't want</p> <p>16 to know what was –</p> <p>17 MS. DEITSCH-PEREZ: Wait, wait.</p> <p>18 Excuse me. Mr. Morris, you did not let him</p> <p>19 finish his answer.</p> <p>20 A. I spoke – we had – we were</p> <p>21 bringing Fred Karesa and Brad Sharp (phonetic)</p> <p>22 up to speed on all of these items, contracts,</p> <p>23 and investments and going through – we had</p> <p>24 hours and hours and hours of discussion. And</p> <p>25 then not only do I have to repeat this not</p>

<p style="text-align: right;">Page 250</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 once, twice, three, four times with – you</p> <p>3 know, I mean, we – I don't – I don't remember</p> <p>4 the sum culmination of all these discussions.</p> <p>5 They all kind of blend together.</p> <p>6 MR. MORRIS: Okay. I move to strike</p> <p>7 and I will try one more time.</p> <p>8 Q. Did you ever tell anybody at DSI</p> <p>9 that you believed any of the notes receivable</p> <p>10 on this list were doubtful or uncollectible?</p> <p>11 MS. DANDENEAU: Object to form.</p> <p>12 A. Potentially.</p> <p>13 Q. Potentially you told them or</p> <p>14 potentially they were doubtful or</p> <p>15 uncollectible?</p> <p>16 A. Potentially I told them that we</p> <p>17 needed to look at the value of these – of</p> <p>18 these assets.</p> <p>19 Q. Okay. Did you – okay. It is</p> <p>20 potential that you told them and it is</p> <p>21 potentially that you didn't; right?</p> <p>22 MS. DANDENEAU: Objection to form.</p> <p>23 A. I've gone through that. I don't</p> <p>24 recall specifically.</p> <p>25 Q. So you should just – I don't want</p>	<p style="text-align: right;">Page 251</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to tell what you to do. Do you have –</p> <p>3 MS. DANDENEAU: Good.</p> <p>4 Q. Other than – other than telling</p> <p>5 them that they should look at the values, do</p> <p>6 you have any recollection whatsoever of ever</p> <p>7 having told anybody at DSI that any of the</p> <p>8 notes receivable on this page were doubtful or</p> <p>9 uncollectible?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 MS. DANDENEAU: Objection.</p> <p>13 A. I recall having general discussions</p> <p>14 about everything on our balance sheet which</p> <p>15 would have included these – these notes</p> <p>16 receivable.</p> <p>17 Q. Okay.</p> <p>18 A. I don't recall specifically where</p> <p>19 those discussions delved into.</p> <p>20 Q. Do you recall any discussion at all</p> <p>21 on the topic of whether any of these notes on</p> <p>22 this list were doubtful or uncollectible?</p> <p>23 MR. AIGEN: Mr. Morris, how on earth</p> <p>24 is that question different from the</p> <p>25 question that you just asked for the last</p>
<p style="text-align: right;">Page 252</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 five times? I mean, really I thought you</p> <p>3 were – (overspeak.)</p> <p>4 MR. MORRIS: Because he never</p> <p>5 answered it.</p> <p>6 MS. DEITSCH-PEREZ: Are you</p> <p>7 listening to him?</p> <p>8 MR. MORRIS: You know –</p> <p>9 MS. DEITSCH-PEREZ: He basically</p> <p>10 said that he had a conversation with DSI</p> <p>11 that went over all of this stuff and that</p> <p>12 conversation could have included the notes</p> <p>13 but he doesn't recall specifically.</p> <p>14 What more do you want him – to ask</p> <p>15 of him?</p> <p>16 MR. MORRIS: I want him – I would</p> <p>17 love him to say – I would like him to</p> <p>18 testify to the truth, and that is he has no</p> <p>19 recollection.</p> <p>20 MS. DEITSCH-PEREZ: Well, the truth</p> <p>21 as you would like to see it, but – but he</p> <p>22 is testifying truthfully. And I – and, by</p> <p>23 the way, I move to strike that comment –</p> <p>24 MR. MORRIS: Okay.</p> <p>25 MS. DEITSCH-PEREZ: – because it</p>	<p style="text-align: right;">Page 253</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 suggests that he has not testified</p> <p>3 truthfully.</p> <p>4 MR. MORRIS: I will ask my question</p> <p>5 again. And if at any time you want to</p> <p>6 direct him not to answer, that is your</p> <p>7 prerogative.</p> <p>8 Q. Mr. Waterhouse, do you have any</p> <p>9 recollection at all of ever telling anybody</p> <p>10 from DSI that any of these notes were doubtful</p> <p>11 or uncollectible?</p> <p>12 MS. DANDENEAU: Object to form.</p> <p>13 A. I don't remember specifically.</p> <p>14 Q. Do you remember generally that</p> <p>15 specific topic?</p> <p>16 A. We generally talked about assets,</p> <p>17 values. If – we had discussions of that and</p> <p>18 collectability in nature. I mean, of Highland,</p> <p>19 the funds, the CLOs, the entire complex. We</p> <p>20 had discussions like that, which is, you know,</p> <p>21 as you look at a billion dollar consolidated</p> <p>22 balance sheet.</p> <p>23 So I generally remember – this is</p> <p>24 billions of dollars, including these assets –</p> <p>25 having discussions of this – of this type.</p>

<p style="text-align: right;">Page 254</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you believe that an affiliate</p> <p>3 loan on this list was doubtful or</p> <p>4 uncollectible? Would you have told that to</p> <p>5 DSI?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 MS. DEITSCH-PEREZ: Object to form.</p> <p>8 A. If we had, like – again, if we –</p> <p>9 if – if we weren't preparing financial</p> <p>10 statements in accordance with GAAP, and – you</p> <p>11 know, if DSI at that point – they were –</p> <p>12 again, I was new to bankruptcy.</p> <p>13 The CRO is – we are delegating</p> <p>14 everything to the CRO. All the decisionmaking.</p> <p>15 Remember – remember when you and I went into</p> <p>16 Delaware Court and we were saying DSI basically</p> <p>17 does everything, remember this, Mr. Morris?</p> <p>18 You were my counsel at the time, and</p> <p>19 basically we're running everything through DSI.</p> <p>20 That was what this was like in the early part.</p> <p>21 Everything was communicated through</p> <p>22 DSI. So DSI says this. DSI says that. That</p> <p>23 is what we're doing, and we're pointing out</p> <p>24 things to them.</p> <p>25 Now, they decide what direction this</p>	<p style="text-align: right;">Page 255</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 goes.</p> <p>3 Q. Did you point out that any of</p> <p>4 these –</p> <p>5 A. I don't recall specifically.</p> <p>6 Q. Okay. At any time that you served</p> <p>7 as Highland's CFO, did you ever point out to</p> <p>8 DSI that any of these loans were doubtful or</p> <p>9 uncollectible?</p> <p>10 MS. DEITSCH-PEREZ: Object to the</p> <p>11 form.</p> <p>12 MS. DANDENEAU: Objection.</p> <p>13 A. If you're asking me if I had a</p> <p>14 conversation with DSI, if any of these loans</p> <p>15 were doubtful or uncollectible, I don't recall</p> <p>16 specifically.</p> <p>17 Q. Do you recall that the debtor filed</p> <p>18 on the docket monthly operating reports?</p> <p>19 A. Yes.</p> <p>20 Q. You prepared those personally,</p> <p>21 didn't you?</p> <p>22 MS. DEITSCH-PEREZ: Objection to</p> <p>23 form.</p> <p>24 A. I didn't personally prepare them,</p> <p>25 the team did with DSI.</p>
<p style="text-align: right;">Page 256</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. But you signed them; correct?</p> <p>3 A. My signature is on the MORs.</p> <p>4 Q. And you signed them as the preparer</p> <p>5 of the document; correct?</p> <p>6 A. Yes, I did this pursuant to DSI's</p> <p>7 instructions.</p> <p>8 Q. Okay. You wouldn't have signed the</p> <p>9 document if you didn't believe it to be</p> <p>10 accurate; correct?</p> <p>11 A. If I had reason to believe it</p> <p>12 wasn't, presumably I wouldn't have signed it.</p> <p>13 Q. Okay. And do you have any reason to</p> <p>14 believe right now that any monthly operating</p> <p>15 report that has your signature on it was</p> <p>16 inaccurate in any way?</p> <p>17 MS. DEITSCH-PEREZ: Object to the</p> <p>18 form.</p> <p>19 A. My understanding of the monthly</p> <p>20 operating reports is we were filing them in</p> <p>21 accordance with the standards set by the Court.</p> <p>22 It wasn't – you know, again, I don't – you</p> <p>23 know, it wasn't GAAP. It wasn't these other</p> <p>24 standards, so I testified I didn't have</p> <p>25 experience in this. The CRO was running the</p>	<p style="text-align: right;">Page 257</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 show. I followed their advice.</p> <p>3 Q. But you assured yourself that</p> <p>4 everything in the report was accurate before</p> <p>5 you signed them; correct?</p> <p>6 MS. DANDENEAU: Objection to form.</p> <p>7 A. I trusted the guidance from the CRO</p> <p>8 and their team and their experience and their</p> <p>9 guidance for doing this for many, many, many</p> <p>10 years to – to – to categorize and put things</p> <p>11 in ways on the form.</p> <p>12 You know, my team had – had not</p> <p>13 filled out these forms before and needed all of</p> <p>14 this guidance. I'm not an expert in this. I</p> <p>15 have oversight of it. I signed the form. DSI</p> <p>16 told me to.</p> <p>17 Q. And you and your team are the source</p> <p>18 of the information that DSI used to create the</p> <p>19 reports; correct?</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. The books and records reside with</p> <p>22 the – with – with the corporate accounting</p> <p>23 team.</p> <p>24 Q. Okay. And the corporate accounting</p> <p>25 team was the corporate accounting team that was</p>

<p style="text-align: right;">Page 258</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 under your direction; correct?</p> <p>3 A. Yes.</p> <p>4 Q. So -- so your team was responsible</p> <p>5 for maintaining Highland's books and records;</p> <p>6 correct?</p> <p>7 A. I'm sorry, my team was responsible?</p> <p>8 Q. Correct.</p> <p>9 A. Yes. They -- they -- they were</p> <p>10 the -- the -- the general ledger of Highland,</p> <p>11 that responsibility was with the corporate</p> <p>12 accounting team.</p> <p>13 Q. The corporate accounting group</p> <p>14 reported to you; correct?</p> <p>15 A. Yes.</p> <p>16 MR. MORRIS: Can we put up 41,</p> <p>17 please.</p> <p>18 (Exhibit 41 marked.)</p> <p>19 Q. All right. You will see that this</p> <p>20 is a report that is dated January 31st, 2020,</p> <p>21 but it is for the month ending December 2019.</p> <p>22 Do you see that?</p> <p>23 A. I do.</p> <p>24 Q. And you signed this report in your</p> <p>25 capacity as the chief financial officer of</p>	<p style="text-align: right;">Page 259</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Highland; correct?</p> <p>3 A. Yes.</p> <p>4 Q. And you're the preparer -- you're</p> <p>5 identified as the preparer of the report;</p> <p>6 correct?</p> <p>7 A. That is correct.</p> <p>8 Q. Do you recall participating in the</p> <p>9 preparation of monthly operating reports?</p> <p>10 A. As I testified earlier, it was put</p> <p>11 together, you know, with the team. The team</p> <p>12 worked with DSI to put these monthly operating</p> <p>13 reports together. We had no experience at this</p> <p>14 time of the monthly operating reports or things</p> <p>15 of this nature.</p> <p>16 MR. MORRIS: Can you turn to the</p> <p>17 next page, please.</p> <p>18 Q. Do you see a line item under assets</p> <p>19 due from affiliates?</p> <p>20 A. Yes, I do.</p> <p>21 Q. Okay. And to the best of your</p> <p>22 knowledge and understanding, as the person who</p> <p>23 is identified as the preparer of this report,</p> <p>24 does that line item include the affiliate loans</p> <p>25 that we've been talking about?</p>
<p style="text-align: right;">Page 260</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Again, I would have to see, just</p> <p>3 like we did with the financial statements of</p> <p>4 Highland and NexPoint, I would have to see a</p> <p>5 detailed build, but, you know, if you look at</p> <p>6 the other line items, you know, the only other</p> <p>7 place it could be would be in -- in other</p> <p>8 assets.</p> <p>9 Q. Okay. And as a matter of</p> <p>10 arithmetic, is it fair to say that is the value</p> <p>11 of the assets due from affiliates was more than</p> <p>12 25 percent of the value of Highland's total</p> <p>13 assets as of 12/31/2019?</p> <p>14 MS. DANDENEAU: Objection to form.</p> <p>15 A. I'm really not doing the mental math</p> <p>16 right now, so I've been going at this depo for</p> <p>17 hours, so I'm really not -- you know --</p> <p>18 Q. All right. No problem.</p> <p>19 A. -- these are millions of dollars.</p> <p>20 Q. Let's look at the Footnote 1,</p> <p>21 please. Do you see there is a reference to the</p> <p>22 Hunter Mountain note?</p> <p>23 A. Yes, I see that in Footnote 1.</p> <p>24 Q. Okay. And that's the reserve that</p> <p>25 was taken against that note?</p>	<p style="text-align: right;">Page 261</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes, that is what this indicates.</p> <p>3 Q. Okay. And were you aware that the</p> <p>4 reserve was being taken on that it was?</p> <p>5 A. I was -- I was aware, yeah, at some</p> <p>6 point, yes.</p> <p>7 Q. Okay. And are you aware of any</p> <p>8 reserve being taken with respect to any other</p> <p>9 note that was issued in favor of Highland?</p> <p>10 A. Again, as I testified, we didn't go</p> <p>11 through an analysis on -- on -- on the other</p> <p>12 notes.</p> <p>13 Q. Can we turn --</p> <p>14 A. I believe -- I believe it says that</p> <p>15 in Footnote 1, fair value has not been</p> <p>16 determined with respect to any of the notes.</p> <p>17 So this footnote -- footnotes, look,</p> <p>18 there has been no determination.</p> <p>19 Q. Okay. The determination was made in</p> <p>20 the audited financial statements just six</p> <p>21 months earlier; right? We saw that earlier?</p> <p>22 A. That was as of 12/31/18. I mean,</p> <p>23 things -- circumstances -- there's a bank --</p> <p>24 circumstances change, things change -- things</p> <p>25 change over time, you know, facts and</p>

<p style="text-align: right;">Page 262</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 circumstances change. Again, you have to do an</p> <p>3 analysis.</p> <p>4 Q. Okay. And you do recall that in</p> <p>5 Highland's 2018 financial statement, all of the</p> <p>6 notes issued by affiliates and Mr. Dondero that</p> <p>7 were due at year-end had a fair value equal to</p> <p>8 the carrying value; correct? We looked at</p> <p>9 that?</p> <p>10 A. Yes. That was in the -- in the</p> <p>11 disclosure for the -- for the affiliate notes,</p> <p>12 yes.</p> <p>13 Q. And -- and you were obligated to</p> <p>14 share with PwC any subsequent events between</p> <p>15 the end of 2018 and the date that you signed</p> <p>16 your management representation letter on June</p> <p>17 3rd, 2019; correct?</p> <p>18 MS. DEITSCH-PEREZ: Object to the</p> <p>19 form.</p> <p>20 A. Yes. I -- I -- I signed the</p> <p>21 management, you know, my signature is in the</p> <p>22 management representation letter -- I hope I'm</p> <p>23 answering your question -- that is dated in</p> <p>24 June with the representations made in that</p> <p>25 management representation letter.</p>	<p style="text-align: right;">Page 263</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. And there was nothing that</p> <p>3 caused PricewaterhouseCoopers to include in</p> <p>4 subsequent events any adjustment to the</p> <p>5 conclusion that the fair value of the affiliate</p> <p>6 notes and the notes issued by Mr. Dondero</p> <p>7 equaled the carrying value; correct?</p> <p>8 MS. DANDENEAU: Objection to the</p> <p>9 form.</p> <p>10 A. That is correct. That is what was</p> <p>11 in the -- in the -- in the footnotes.</p> <p>12 Q. Okay. So are you aware of anything</p> <p>13 that occurred between June 3rd, 2019 and</p> <p>14 December 31st, 2019 that would have caused the</p> <p>15 fair value of the notes to differ from the</p> <p>16 carrying value?</p> <p>17 A. Yeah. Highland filed for</p> <p>18 bankruptcy, things changed -- I mean, there was</p> <p>19 a bankruptcy filed in October of -- of -- of</p> <p>20 2019, right, the petition date that we've</p> <p>21 described earlier.</p> <p>22 I mean, I had a -- I guess looking</p> <p>23 back naively, I thought we were going to get an</p> <p>24 audit from PwC for year-ended 2019, and when we</p> <p>25 had discussions with PwC, they were like, are</p>
<p style="text-align: right;">Page 264</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 you crazy, we're not auditing this. Values</p> <p>3 change, all these things change, bankruptcy</p> <p>4 changes the entire scenario. I mean -- and</p> <p>5 they're like, we're not -- we're not touching</p> <p>6 this.</p> <p>7 And so, you know, I was like, okay,</p> <p>8 sorry, I get it, okay, no an audit.</p> <p>9 I mean, it is -- you know, and --</p> <p>10 you know, and we weren't preparing GAAP</p> <p>11 financial statements.</p> <p>12 Again, I didn't know what we were</p> <p>13 doing in relation to our financial statements,</p> <p>14 but these were the discussions I was having at</p> <p>15 the time. And yeah, I mean, filing bankruptcy</p> <p>16 from what I got from outside auditors and</p> <p>17 others involved changed things dramatically.</p> <p>18 Q. Okay. Highland wasn't the obligor</p> <p>19 under any of the notes that we're talking</p> <p>20 about; correct?</p> <p>21 A. No.</p> <p>22 Q. So --</p> <p>23 A. That's right.</p> <p>24 Q. So can you identify any fact that</p> <p>25 would cause the fair value to deviate from the</p>	<p style="text-align: right;">Page 265</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 carrying value during the seven-month period</p> <p>3 between June 3rd and the end of the year, 2019?</p> <p>4 MS. DANDENEAU: Objection to form.</p> <p>5 A. No. I mean, I'm putting myself back</p> <p>6 at that time, right. Hindsight is 2020, but we</p> <p>7 didn't do an analysis, but we would have done a</p> <p>8 fulsome analysis and looked at all of the facts</p> <p>9 and circumstances at the time, but asset values</p> <p>10 change. You know, there could have been a</p> <p>11 market crash in hindsight in 2020, which --</p> <p>12 which affected entities' abilities.</p> <p>13 There could have been all of these</p> <p>14 things, right, that -- that happen. It is --</p> <p>15 it is easy to look back in hindsight, but when</p> <p>16 you are looking at this in -- in realtime, the</p> <p>17 analysis is different, and again, we didn't do</p> <p>18 an analysis.</p> <p>19 Q. Okay. You didn't do an analysis.</p> <p>20 Do I have that right?</p> <p>21 A. I don't -- I don't recall doing one</p> <p>22 or maybe -- you know, I don't recall doing one.</p> <p>23 MR. MORRIS: Okay. I'm going to</p> <p>24 take a break. I may be done, so the time</p> <p>25 now is -- is 4:30 your time. Let's just</p>

<p style="text-align: right;">Page 266</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 take a short break until 4:40 your time.</p> <p>3 MS. DANDENEAU: Okay.</p> <p>4 VIDEOGRAPHER: We're going off the</p> <p>5 record, 4:31 p.m.</p> <p>6 (Recess taken 4:31 p.m. to 4:43 p.m.)</p> <p>7 VIDEOGRAPHER: We are back on the</p> <p>8 record at 4:43 p.m.</p> <p>9 MR. MORRIS: I have no further</p> <p>10 questions.</p> <p>11 MR. RUKAVINA: Okay.</p> <p>12 Mr. Waterhouse, I will go next.</p> <p>13 EXAMINATION</p> <p>14 BY MR. RUKAVINA:</p> <p>15 Q. Sir, my name is Davor Rukavina. I'm</p> <p>16 the lawyer for –</p> <p>17 MR. MORRIS: Hey, Davor, just before</p> <p>18 you begin, I just want to put on the record</p> <p>19 Highland's objection to documents that were</p> <p>20 produced to me 10 minutes before the</p> <p>21 deposition began.</p> <p>22 MR. RUKAVINA: What the basis of</p> <p>23 your objection?</p> <p>24 MR. MORRIS: That they were due</p> <p>25 quite some time ago, and the fact that you</p>	<p style="text-align: right;">Page 267</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 had – I just think it's appropriate to –</p> <p>3 to dump documents on somebody 10 minutes</p> <p>4 before the deposition. I just think</p> <p>5 that's –</p> <p>6 MR. RUKAVINA: Well, these are</p> <p>7 documents Highland produced. I'm not aware</p> <p>8 of any rule I have to give you advance</p> <p>9 documents when I know for the record that</p> <p>10 other than the exhibits that you sent to us</p> <p>11 last week, most of the exhibits you used</p> <p>12 today you did not provide to me prior to</p> <p>13 this deposition.</p> <p>14 MR. MORRIS: No, but the documents</p> <p>15 were produced by me in – in litigation,</p> <p>16 right?</p> <p>17 MR. RUKAVINA: I'm going to use</p> <p>18 primarily, John, the documents that you</p> <p>19 produced to me today, but you may.</p> <p>20 MR. MORRIS: Primarily. I've got –</p> <p>21 I've got my objection. You have got your</p> <p>22 response. Proceed.</p> <p>23 Q. Mr. Waterhouse, again, I represent</p> <p>24 the advisors, HCMFA and NexPoint Advisors.</p> <p>25 Do you understand that?</p>
<p style="text-align: right;">Page 268</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. You and I have never met or talked</p> <p>4 before today, have we?</p> <p>5 A. No, I have – I have heard your</p> <p>6 voice on calls before.</p> <p>7 Q. Okay.</p> <p>8 MR. RUKAVINA: Madam Court Reporter,</p> <p>9 I will use a few exhibits today. My</p> <p>10 associate, Mr. Nguyen, will find some way</p> <p>11 to get them to you. I don't know how to do</p> <p>12 that, but it looks like you guys do.</p> <p>13 I am going to use numbers as well.</p> <p>14 But to differentiate them from Mr. Morris</p> <p>15 we're going to mark mine with the prefix A</p> <p>16 for advisors.</p> <p>17 Do you understand?</p> <p>18 COURT REPORTER: Yes.</p> <p>19 MR. RUKAVINA: Okay. Perfect.</p> <p>20 Q. Okay. So, Mr. Waterhouse, let's</p> <p>21 start with those two HCMFA notes that you were</p> <p>22 asked about, one for 5 million and one for</p> <p>23 2.4 million.</p> <p>24 Do you recall those notes?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 269</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Were you ever the CFO of HCMFA?</p> <p>3 A. I don't recall.</p> <p>4 Q. So to the best of your recollection,</p> <p>5 you were still an officer of HCMFA in 2019,</p> <p>6 just that your title was treasurer?</p> <p>7 MR. MORRIS: Object to the form of</p> <p>8 the question. There is no leading here.</p> <p>9 He works for your client.</p> <p>10 MS. DANDENEAU: That is not – that</p> <p>11 is not true.</p> <p>12 MR. MORRIS: He's the treasurer –</p> <p>13 he is the treasurer of your client. I</p> <p>14 don't – I'm going to object every time you</p> <p>15 try to lead, so...</p> <p>16 MR. RUKAVINA: Totally fine to</p> <p>17 object.</p> <p>18 MR. MORRIS: Okay.</p> <p>19 Q. Please answer my question,</p> <p>20 Mr. Waterhouse.</p> <p>21 A. I'm sorry, could you repeat? There</p> <p>22 was...</p> <p>23 Q. Yes. You were – you testified</p> <p>24 earlier that in 2019 you were an officer of</p> <p>25 HCMFA; correct?</p>

<p style="text-align: right;">Page 270</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes, I testified that I was the</p> <p>3 treasurer and I didn't know if that incumbency</p> <p>4 certificate, you know, was one that appointed</p> <p>5 me as a treasurer, but yes.</p> <p>6 Q. I'm just trying to confirm that</p> <p>7 sitting here today, to the best of your</p> <p>8 recollection, at that time you were – your</p> <p>9 title was treasurer. It was not chief</p> <p>10 financial officer.</p> <p>11 A. I don't recall that being my title.</p> <p>12 Q. Okay. And in May of 2019, however,</p> <p>13 I think you testified you were the chief</p> <p>14 financial officer of the debtor; correct?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. Yes, I was – yes.</p> <p>18 Q. Okay. As such, in May of 2019, did</p> <p>19 you have the authority, to your understanding,</p> <p>20 to unilaterally loan \$5 million or \$2.4 million</p> <p>21 to anyone on behalf of the debtor?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Sorry, can you repeat that?</p> <p>25 Q. Yes. So in your capacity as the</p>	<p style="text-align: right;">Page 271</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 chief financial officer of the debtor, Highland</p> <p>3 Capital Management, L.P., in May of 2019, did</p> <p>4 you believe that you unilaterally, just Frank</p> <p>5 Waterhouse, had the authority to loan on behalf</p> <p>6 of the debtor to anyone \$5 million and</p> <p>7 \$2.4 million?</p> <p>8 MR. MORRIS: Objection to the form</p> <p>9 of the question.</p> <p>10 A. No.</p> <p>11 Q. Is it because loans of that amount</p> <p>12 would have had to be approved by someone else?</p> <p>13 A. Yes.</p> <p>14 Q. Who in '20 – in May of 2019, if</p> <p>15 Highland wanted to loan 5 million or</p> <p>16 \$2.4 million to someone, what would have been</p> <p>17 the internal approval procedure?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of the question.</p> <p>20 A. If – if we had loans of that nature</p> <p>21 that needed to be made due to their size, we</p> <p>22 would have gotten approval from the – the</p> <p>23 president of Highland.</p> <p>24 Q. And who that was individual?</p> <p>25 A. It was James Dondero.</p>
<p style="text-align: right;">Page 272</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Now, I'm going to ask you a</p> <p>3 similar question but for a different entity.</p> <p>4 In May of 2019, as the treasurer of</p> <p>5 HCMFA, did you believe that you unilaterally</p> <p>6 had the ability to cause HCMFA to become the</p> <p>7 borrower of a \$5 million loan and a</p> <p>8 \$2.4 million loan?</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. No.</p> <p>12 Q. What would – what would the</p> <p>13 approval have taken place – strike that.</p> <p>14 What would the approval process have</p> <p>15 been like in May of 2019 at HCMFA for HCMFA to</p> <p>16 take out a \$7.4 million loan?</p> <p>17 MR. MORRIS: Objection to the form</p> <p>18 of the question.</p> <p>19 A. The process would have been similar</p> <p>20 to what we just discussed on – for Highland to</p> <p>21 make a loan to others. So, again, you know,</p> <p>22 we – we would have – either myself or someone</p> <p>23 on the team would have discussed this with</p> <p>24 the – the president and owner of – of HCMFA.</p> <p>25 Q. And who was that individual?</p>	<p style="text-align: right;">Page 273</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. That was James – Jim Dondero.</p> <p>3 Q. So do I understand that in May of</p> <p>4 2019, on behalf of both the lender, Highland,</p> <p>5 and the borrower, HCMFA, Mr. Dondero would have</p> <p>6 had to approve \$7.4 million in loans?</p> <p>7 MR. MORRIS: Objection to the form</p> <p>8 of the question.</p> <p>9 A. Yes.</p> <p>10 Q. You mentioned when Mr. Morris was</p> <p>11 asking you the NAV error, N-A-V error, with</p> <p>12 respect to TerreStar, without writing us a</p> <p>13 novel, unless you feel like you have to, can</p> <p>14 you summarize what that NAV error was? What</p> <p>15 happened?</p> <p>16 A. There was a – in the Highland</p> <p>17 Global Allocation Fund, it owned at the time an</p> <p>18 equity interest in a company called TerreStar.</p> <p>19 And TerreStar is – at the time was a private</p> <p>20 company, and it may still be today. Again, I'm</p> <p>21 putting myself back then as a private company.</p> <p>22 We had – sorry, I don't mean we –</p> <p>23 the fund and the advisor used Houlihan Lokey</p> <p>24 to – to value that investment. And during</p> <p>25 that time there was some trades that were</p>

<p style="text-align: right;">Page 274</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 executed at market levels that were much lower</p> <p>3 than the Houlihan Lokey model.</p> <p>4 And based on information and</p> <p>5 discussions with the portfolio managers and,</p> <p>6 you know, principals that were very familiar</p> <p>7 with TerreStar, it was determined that those</p> <p>8 trades were non-orderly and they were not</p> <p>9 considered in the valuation as consulted with</p> <p>10 Houlihan Lokey and PricewaterhouseCoopers at</p> <p>11 the time.</p> <p>12 Subsequent to a – I can't remember</p> <p>13 the exact circumstances of why the SEC got</p> <p>14 involved. I think it was due to this – this</p> <p>15 investment became a material position in the</p> <p>16 fund. It triggered an SEC, kind of, inquiry.</p> <p>17 And as part of that inquiry, they questioned</p> <p>18 the valuation methodology. "They" meaning the</p> <p>19 SEC.</p> <p>20 And at the culmination of that</p> <p>21 process – this is all summarized – the value</p> <p>22 that was – that ultimately had to be used in</p> <p>23 the fund's NAV was different than – materially</p> <p>24 different than what the original valuation at</p> <p>25 Houlihan Lokey provided.</p>	<p style="text-align: right;">Page 275</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 And given that there was this fund</p> <p>3 was, as we discussed – I don't know if we</p> <p>4 discussed it, but it was an open-ended fund</p> <p>5 that was going – that was converting to a</p> <p>6 close-end fund.</p> <p>7 Due to the fact that it was an</p> <p>8 open-ended fund, you had to recalculate NAV and</p> <p>9 see what the impact was on people – on</p> <p>10 investors coming in and out of the fund and if</p> <p>11 there is a detrimental impact and to calculate</p> <p>12 what that – what that impact was and if there</p> <p>13 was any amounts owed to the fund pursuant to</p> <p>14 the error.</p> <p>15 Q. Were you personally involved</p> <p>16 internally at either Highland or HCMFA with</p> <p>17 these investigations and discussions with the</p> <p>18 SEC?</p> <p>19 A. I was.</p> <p>20 Q. Which other key people or senior</p> <p>21 people at Highland were involved, to your</p> <p>22 recollection?</p> <p>23 A. Myself, Thomas Surgent, David Klos,</p> <p>24 Lauren Thedford, Jason Post.</p> <p>25 Q. Mr. Dondero, was he –</p>
<p style="text-align: right;">Page 276</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I believe Cliff Stoops. I'm trying</p> <p>3 to think. And maybe that is – that is – that</p> <p>4 is – that is all kind I can recall at the</p> <p>5 moment.</p> <p>6 Q. Do you recall whether it was</p> <p>7 determined that the fund suffered losses as a</p> <p>8 result of this error?</p> <p>9 A. The – the fund – the – the –</p> <p>10 because the open-ended nature of the fund,</p> <p>11 there were losses that were attributable to</p> <p>12 investors. Meaning they – they would have</p> <p>13 redeemed and got a less money or – or they</p> <p>14 subscribed in and maybe because they didn't get</p> <p>15 enough shares and then they later sold and then</p> <p>16 they were harmed in that fashion.</p> <p>17 And there is – there is – there</p> <p>18 were very – there were very detailed</p> <p>19 calculations and, you know, all these different</p> <p>20 scenarios that we had to – I'm sorry, I keep</p> <p>21 saying "we" – that the individuals involved</p> <p>22 had to calculate and quantify.</p> <p>23 Q. Well, do you recall whether HCMFA</p> <p>24 admitted certain fault and liability for this</p> <p>25 error?</p>	<p style="text-align: right;">Page 277</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I don't recall specifically.</p> <p>3 Q. Do you recall whether HCMFA caused</p> <p>4 any funds to be paid to the investors and the</p> <p>5 fund the subject of the NAV error?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall the approximate amount</p> <p>8 of funds, moneys paid to the investors and the</p> <p>9 fund?</p> <p>10 A. It was – it was approximately</p> <p>11 \$7 million.</p> <p>12 Q. If I was to suggest 7.8 million,</p> <p>13 would that ring more true or are you sticking</p> <p>14 with your original answer?</p> <p>15 A. It was – it was approximately 7 –</p> <p>16 7 to \$8 million. Again, I don't remember the</p> <p>17 exact number, but it was in that ballpark.</p> <p>18 Q. So regardless of whether HCMFA</p> <p>19 accepted fault or liability, it caused some</p> <p>20 \$7 million or more to be paid out to affected</p> <p>21 investors in the fund?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. And I want to make sure I'm</p> <p>25 understanding your question because there is a</p>

<p style="text-align: right;">Page 278</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 lot of different entities that are going on to</p> <p>3 my head.</p> <p>4 I think what you are saying is based</p> <p>5 on this error, shareholders were harmed by this</p> <p>6 approximately \$7.8 million – by approximately</p> <p>7 \$7.8 million. Is that what you are asking?</p> <p>8 Q. Yes, sir.</p> <p>9 A. Yes, that was – again, I don't have</p> <p>10 the exact numbers. If I take – it was – it</p> <p>11 was in that ballpark, and there is a detail</p> <p>12 calculation and write-up that could, that –</p> <p>13 that exists someplace.</p> <p>14 Q. Now, at that time, at the time that</p> <p>15 the NAV error occurred, was there a contract in</p> <p>16 place between HCMFA and the debtor pursuant to</p> <p>17 which the debtor was providing services to</p> <p>18 HCMFA?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. Yes.</p> <p>22 Q. Was that contract generally called a</p> <p>23 shared services agreement?</p> <p>24 A. It was generally called that, but</p> <p>25 there were – there were – I mean, it – it –</p>	<p style="text-align: right;">Page 279</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 it depends on who you talk to, but yes,</p> <p>3 generally, there were – there are multiple</p> <p>4 agreements.</p> <p>5 Q. Pursuant to one or more of those</p> <p>6 agreements, was the debtor providing certain</p> <p>7 services to HCMFA?</p> <p>8 MR. MORRIS: Objection to the form</p> <p>9 of the question.</p> <p>10 A. Yes.</p> <p>11 Q. And can you at a very high level</p> <p>12 summarize in 2018 and 2019 what those services</p> <p>13 were?</p> <p>14 A. Yes, there was a – yes.</p> <p>15 Q. Okay. Please – please go – go</p> <p>16 through a short summary.</p> <p>17 A. There was a – a cost reimbursement</p> <p>18 agreement between Highland Capital Management</p> <p>19 Fund Advisors and Highland Capital Management,</p> <p>20 L.P. That agreement was for what we referred</p> <p>21 to as front office services, so investment</p> <p>22 management, things of that nature.</p> <p>23 There was I think what most people</p> <p>24 refer to as the shared services agreement that</p> <p>25 was – that agreement was between Highland</p>
<p style="text-align: right;">Page 280</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Capital Management Fund Advisors and Highland</p> <p>3 Capital Management for back office services.</p> <p>4 Q. And can you summarize what you mean</p> <p>5 by back office services?</p> <p>6 A. Those services were for accounting,</p> <p>7 finance, tax, valuation, HR, IT, you know,</p> <p>8 legal compliance, things of – things of those</p> <p>9 nature – or things of that nature, excuse me.</p> <p>10 Q. So in the spring of 2019, do you</p> <p>11 recall whether HCMFA took the position that it</p> <p>12 was actually Highland that caused the NAV error</p> <p>13 to occur pursuant to the valuation services</p> <p>14 that Highland was providing?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I do not recall.</p> <p>18 Q. Did you ever have any discussions</p> <p>19 with anyone, Jim Dondero or anyone in the first</p> <p>20 half of 2019 as to whether Highland, the</p> <p>21 debtor, that is, had any liability to HCMFA</p> <p>22 related to the NAV error?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. I do not recall.</p>	<p style="text-align: right;">Page 281</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And then you mentioned that the fund</p> <p>3 was being closed and some compensation related</p> <p>4 to that. Can you – can you elaborate? What</p> <p>5 were you referring to?</p> <p>6 A. Right. So the advisor, pursuant to</p> <p>7 board approval, put a proposal in front of the</p> <p>8 shareholders of the Highland Global Allocation</p> <p>9 Fund to convert it from an open-ended fund to a</p> <p>10 closed-end fund.</p> <p>11 So an open-ended fund, when</p> <p>12 shareholders subscribe to the fund or redeem</p> <p>13 into the fund, they do it at NAV.</p> <p>14 When it is – when you have a</p> <p>15 closed-end fund, closed-end funds are – are</p> <p>16 publicly-traded, like on the New York Stock</p> <p>17 Exchange, exchanges like that, and – and</p> <p>18 shareholders or investors, they're not –</p> <p>19 they're – they're not subscribing and</p> <p>20 redeeming with the fund. They are like shares</p> <p>21 of Apple.</p> <p>22 Those shares of the Highland Global</p> <p>23 Allocation Fund trade on an exchange, and that</p> <p>24 is how you, you know, that is how, you know,</p> <p>25 you become an equity owner in the fund or you</p>

<p style="text-align: right;">Page 282</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 sell your shares and you are no longer an</p> <p>3 equity owner.</p> <p>4 As part of that proposal, the</p> <p>5 advisor told shareholders if you – if you vote</p> <p>6 for this proposal to – to convert it from an</p> <p>7 open-ended fund to a closed-end fund, we will</p> <p>8 pay you some amounts of money. I forgot – a</p> <p>9 certain number of points. I think it was</p> <p>10 like – it was like two to three points or</p> <p>11 something – something like that.</p> <p>12 Q. Okay. You mentioned when Mr. Morris</p> <p>13 was asking you, going back to those two</p> <p>14 promissory notes, you will recall the 5 million</p> <p>15 and 2.4 million, you mentioned something to the</p> <p>16 effect that Mr. Dondero told – told you to pay</p> <p>17 some moneys out of Highland. Do you remember</p> <p>18 that discussion with Mr. Morris?</p> <p>19 A. I do.</p> <p>20 Q. So, to the best of your</p> <p>21 recollection, did you have a discussion with</p> <p>22 Mr. Dondero about making some payments in May</p> <p>23 of 2019 out of Highland?</p> <p>24 A. I recall, as I testified earlier,</p> <p>25 that I had a conversation with Mr. Dondero</p>	<p style="text-align: right;">Page 283</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 for – for these amounts attributable to – it</p> <p>3 was either the error – you know, the error,</p> <p>4 and in that conversation he said, go get the</p> <p>5 money from Highland. I believe that is what I</p> <p>6 testified earlier, and that – that is my</p> <p>7 recollection.</p> <p>8 Q. Do you recall if that was an</p> <p>9 in-person meeting or some other mode for the</p> <p>10 meeting?</p> <p>11 A. I – I – I recall that being</p> <p>12 in-person.</p> <p>13 Q. Do you recall if anyone else was</p> <p>14 present, or was it just you and Mr. Dondero?</p> <p>15 A. I recall just he and I.</p> <p>16 Q. And the moneys that he told you to</p> <p>17 find from – or get from Highland, was that in</p> <p>18 the amount of \$5 million and \$2.4 million?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. I believe so, but I would have to go</p> <p>22 back and look and see when those moneys were</p> <p>23 actually paid into the – into the fund and,</p> <p>24 you know, when those transfers were done. If</p> <p>25 they were all done around that same time, then</p>
<p style="text-align: right;">Page 284</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 yes, I would say it was – it was all related</p> <p>3 to that.</p> <p>4 Q. Did Mr. Dondero tell you that those</p> <p>5 funds would be a loan from Highland to HCMFA?</p> <p>6 A. I don't recall.</p> <p>7 MR. MORRIS: Objection to the form</p> <p>8 of the question.</p> <p>9 Q. Now, and forgive me, I'm probably</p> <p>10 the only non-American born here, but I speak</p> <p>11 reasonably well in English. I don't recall,</p> <p>12 does that mean you don't remember or does that</p> <p>13 mean it didn't happen?</p> <p>14 MR. MORRIS: Objection to the form</p> <p>15 of the question.</p> <p>16 A. It – it means I don't – I don't</p> <p>17 remember.</p> <p>18 Q. Did Mr. Dondero tell you to have</p> <p>19 those two promissory notes prepared?</p> <p>20 A. I don't recall.</p> <p>21 Q. When you – again, when you say, I</p> <p>22 don't recall today, that means that sitting</p> <p>23 here today, you just don't remember one way or</p> <p>24 the other. Is that accurate?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 285</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Is it possible that you, having</p> <p>3 heard what Mr. Dondero said and seeing funds</p> <p>4 being transferred, assumed that that would be a</p> <p>5 loan without him actually telling you that</p> <p>6 would be a loan?</p> <p>7 MR. MORRIS: Objection to the form</p> <p>8 of the question.</p> <p>9 A. Sorry, I want to make sure – did I</p> <p>10 ask the amounts that were transferred that I –</p> <p>11 that – that I assumed that that was a loan?</p> <p>12 Q. Well, let me – let me take – let</p> <p>13 me try again.</p> <p>14 So you have established already that</p> <p>15 there were quite a number of promissory notes</p> <p>16 back and forth – I'm sorry, quite a number of</p> <p>17 promissory notes with affiliated companies and</p> <p>18 individuals owing Highland money; right?</p> <p>19 A. Yes.</p> <p>20 Q. And you have established that there</p> <p>21 were many transactions and transfers going back</p> <p>22 and forth over the years; right?</p> <p>23 MS. DANDENEAU: Objection to form.</p> <p>24 A. In – yes, in my capacity as CFO and</p> <p>25 my employment, yes, that is – yes.</p>

<p style="text-align: right;">Page 286</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And that's part of the reason why</p> <p>3 you just can't remember some of the details</p> <p>4 today because this – this happened years ago,</p> <p>5 and there were a number of transactions. Is</p> <p>6 that accurate?</p> <p>7 MS. DANDENEAU: Objection to the</p> <p>8 form.</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. I mean, I deal with thousands of –</p> <p>12 of – of – of transactions, you know, whether</p> <p>13 it has – the processing of transactions, you</p> <p>14 know, if it has got, you know, more – more</p> <p>15 zeros, you know, behind it than others.</p> <p>16 When you look at thousands of</p> <p>17 transactions over the years for funds and</p> <p>18 advisors and – and, you know, financial</p> <p>19 statements, I mean, it is – it is very hard</p> <p>20 going back in – in – in my – you know,</p> <p>21 14-ish year career at – at Highland to</p> <p>22 remember a lot of those details, especially</p> <p>23 when I don't have any records or books or</p> <p>24 anything like that, and – and going back many</p> <p>25 years.</p>	<p style="text-align: right;">Page 287</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And that is fine. That – that –</p> <p>3 that is why I asked the question.</p> <p>4 Is it possible in May of 2019 when</p> <p>5 Mr. Dondero told you to transfer the funds from</p> <p>6 Highland, you just assumed on your own that</p> <p>7 those would be loans without him actually</p> <p>8 telling you that those would be loans?</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. I don't know.</p> <p>12 Q. I'm sorry, you –</p> <p>13 A. I said I don't know.</p> <p>14 Q. Okay. Well, as the – as the CFO</p> <p>15 for Highland, if you saw \$7.4 million going</p> <p>16 out, you would feel some responsibility to</p> <p>17 account for that, wouldn't you?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of the question.</p> <p>20 A. Yes.</p> <p>21 Q. Is it fair to say that those would</p> <p>22 be in the range large enough to rise up to your</p> <p>23 level?</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>
<p style="text-align: right;">Page 288</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. If – I don't know if I understand</p> <p>3 your question. Those amounts would arise to my</p> <p>4 level where I would be involved or...</p> <p>5 Q. You would want to know what a</p> <p>6 transfer for that amount, \$7.4 million, was all</p> <p>7 about, as the CFO of Highland, wouldn't you?</p> <p>8 MR. MORRIS: Objection to the form</p> <p>9 of the question.</p> <p>10 A. Yes, I make it – I mean, I – I</p> <p>11 review all sorts of payments, I mean, even</p> <p>12 smaller dollar payments on a periodic basis,</p> <p>13 you know, to – to – to understand and to make</p> <p>14 sure that we are paying things in a – you</p> <p>15 know, in – in – in an informed way. And, you</p> <p>16 know – and we're – and we're paying things</p> <p>17 pursuant to vendor contracts and things like</p> <p>18 that.</p> <p>19 Q. So as part of that, is it possible</p> <p>20 that seeing \$7.4 million go out you would have</p> <p>21 promissory notes made in order to keep a paper</p> <p>22 trail, assuming that those were loans, when</p> <p>23 perhaps they were never intended to be loans by</p> <p>24 Mr. Dondero?</p> <p>25 MR. MORRIS: Objection to the form</p>	<p style="text-align: right;">Page 289</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. I don't know. As I testified</p> <p>4 earlier, I had conversations with Mr. Dondero</p> <p>5 about – about the – the – the moneys that</p> <p>6 were needed for the NAV error. And I recall</p> <p>7 him saying go get it from Highland – or get it</p> <p>8 from Highland.</p> <p>9 Q. Well, why did you sign those</p> <p>10 promissory notes and why didn't you have him</p> <p>11 sign them?</p> <p>12 MR. MORRIS: Objection to the form</p> <p>13 of the question.</p> <p>14 A. I don't know. I don't know.</p> <p>15 Q. You mentioned earlier that you</p> <p>16 typically don't sign promissory notes. Am I</p> <p>17 remembering your testimony correctly?</p> <p>18 I mean, promissory notes on behalf</p> <p>19 of the entities. Not yourself, obviously.</p> <p>20 A. Yes, that is what I said earlier.</p> <p>21 Q. Do you recall any other promissory</p> <p>22 notes in the million-plus range that you had</p> <p>23 ever signed before on behalf of any entity?</p> <p>24 A. There is – there has been a lot of</p> <p>25 transactions over the years. I don't – I</p>

<p style="text-align: right;">Page 290</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 don't – I don't recall generally. I don't –</p> <p>3 I don't recall.</p> <p>4 Q. So – but to the best of your</p> <p>5 recollection, it was on your initiative,</p> <p>6 following your discussion with Mr. Dondero,</p> <p>7 that you had someone draft those two promissory</p> <p>8 notes; is that correct?</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. Yes, we would have – the team, as I</p> <p>12 stated earlier, we don't draft promissory</p> <p>13 notes. "The team" meaning the accounting and</p> <p>14 finance team.</p> <p>15 So the team would have worked with</p> <p>16 the legal group at Highland to draft any notes.</p> <p>17 Q. Do you believe or do you have any</p> <p>18 recollection as to whether you would have done</p> <p>19 that pursuant to an email or telephone call or</p> <p>20 in-person meeting?</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question.</p> <p>23 A. Are you asking if I would have – if</p> <p>24 those notes would have been drafted pursuant to</p> <p>25 an email or phone call?</p>	<p style="text-align: right;">Page 291</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Strike that.</p> <p>3 Do you recall whether you sent an</p> <p>4 email to anyone asking them to draft those two</p> <p>5 promissory notes?</p> <p>6 A. I don't recall because, again,</p> <p>7 once – I would have instructed – likely</p> <p>8 instructed the team to – to work with the</p> <p>9 legal group to draft these documents.</p> <p>10 I – I – I – yeah, I didn't – I</p> <p>11 mean, that is more an operational-type</p> <p>12 procedure. So, you know, a manager or a</p> <p>13 controller or working with legal. You know,</p> <p>14 they – they can certainly handle that task to</p> <p>15 get that – you know, to request that from</p> <p>16 legal.</p> <p>17 Q. And who on your team do you think</p> <p>18 you would have asked to do that?</p> <p>19 MR. MORRIS: Objection –</p> <p>20 Q. Who would have been the logical</p> <p>21 person or people, if you don't remember their</p> <p>22 name today?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. It – it – there is only two</p>
<p style="text-align: right;">Page 292</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 managers of the group. That would have been</p> <p>3 Dave Klos or Kristin Hendrix.</p> <p>4 Dave was the – one of his duties</p> <p>5 was managing the valuation team, and so he was</p> <p>6 intimately involved with this process. So, you</p> <p>7 know...</p> <p>8 Q. Okay.</p> <p>9 A. I don't recall specifically but, I</p> <p>10 mean, my general – you know, I – I – I</p> <p>11 likely would have talked to Dave first about it</p> <p>12 versus someone like Kristin who hadn't been</p> <p>13 intimately involved.</p> <p>14 Q. And – and do you have a view as to</p> <p>15 whether it is most likely that you would have</p> <p>16 done that by email or in-person or how would</p> <p>17 you believe you would have communicated that to</p> <p>18 Mr. Klos?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. I likely would have done that in</p> <p>22 person. Again, if things of this nature</p> <p>23 that – again, you have to put ourselves back</p> <p>24 to, we have been working on this very stressful</p> <p>25 project for many, many months. And once the</p>	<p style="text-align: right;">Page 293</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 go-ahead was to – you know, we see the light</p> <p>3 at the end of the tunnel with wrapping this up</p> <p>4 and making shareholders whole – sorry to say</p> <p>5 "we" – you know, the – so the folks that are</p> <p>6 involved in it.</p> <p>7 I like to talk to people</p> <p>8 face-to-face and – and – and go to – and go</p> <p>9 to their desk, because that shows if I'm going</p> <p>10 to their desk that – that is something that I</p> <p>11 want done, you know.</p> <p>12 Q. And do you remember, Mr. Waterhouse,</p> <p>13 getting those two promissory notes in paper</p> <p>14 format or by email before they were executed?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I don't recall.</p> <p>18 Q. For whatever was the ordinary course</p> <p>19 back then in May 2019, would you expect to have</p> <p>20 received them only on paper or would you have</p> <p>21 expected to have received them in Word document</p> <p>22 or PDF document by email?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. I – I didn't sign – I signed very</p>

<p style="text-align: right;">Page 294</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 few documents via email. I can't say that it</p> <p>3 never happened, but people either stopped by my</p> <p>4 office and physically walked in documents for</p> <p>5 signature that we discussed face-to-face.</p> <p>6 Or documents were – if – if –</p> <p>7 if – if – let's say I wasn't there or I</p> <p>8 wasn't available, documents were dropped off.</p> <p>9 I had – I had some in- and outboxes in front</p> <p>10 of my – my office there at the Crescent.</p> <p>11 Documents would be dropped off for</p> <p>12 signature. There would be a cover sheet that</p> <p>13 would be – have been applied to those</p> <p>14 documents detailing, you know, who dropped it</p> <p>15 off, the purpose, why, what time.</p> <p>16 And then, you know, as I stated, I</p> <p>17 don't draft documents and I always go to the</p> <p>18 legal group and the compliance group to make</p> <p>19 sure that they're in the loop. And there is</p> <p>20 a – a box or section that says, Has legal</p> <p>21 reviewed or approved, or something to that</p> <p>22 nature.</p> <p>23 Again, I don't – I don't have</p> <p>24 access to that cover sheet anymore, but it</p> <p>25 was – it was something to that effect.</p>	<p style="text-align: right;">Page 295</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 And my assistant, you know, if she</p> <p>3 was there, she would review that – you know,</p> <p>4 whatever was being dropped off. And if that</p> <p>5 has legal, you know, reviewed or – reviewed or</p> <p>6 approved it, if that wasn't – if that stuff</p> <p>7 hadn't been done, it was like she would just</p> <p>8 tell them like, go – go – go to the legal</p> <p>9 group, because –</p> <p>10 Q. Let me – let me pause –</p> <p>11 MS. DANDENEAU: Let him finish.</p> <p>12 MR. MORRIS: Thank you. Go ahead.</p> <p>13 A. I take – go to the legal group</p> <p>14 because that – that was my – you know, I</p> <p>15 didn't – I didn't review anything that – that</p> <p>16 they weren't – you know, or there wasn't some</p> <p>17 representation made to me that they had</p> <p>18 reviewed, approved in some capacity.</p> <p>19 Again, my – my – my goal, as CFO,</p> <p>20 is to provide transparency and make sure that</p> <p>21 groups like compliance and other things – and</p> <p>22 the other group in legal are – are in – you</p> <p>23 know, their – they're made aware of</p> <p>24 transactions of – you know, that are crossing</p> <p>25 my desk.</p>
<p style="text-align: right;">Page 296</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Because I'm not in every</p> <p>3 conversation. They're not in every</p> <p>4 conversation – meaning legal compliance – and</p> <p>5 I just want to make sure that – that everyone</p> <p>6 is in sync to, you know, to – to the extent</p> <p>7 possible.</p> <p>8 Q. So if we summarize, you don't</p> <p>9 specifically remember signing these two notes,</p> <p>10 but most likely it would have been that they</p> <p>11 would have presented – been presented to you</p> <p>12 physically on paper?</p> <p>13 MR. MORRIS: Objection to the form</p> <p>14 of the question.</p> <p>15 A. They would – they would have been</p> <p>16 presented physically on paper most likely or</p> <p>17 someone would have left it. But, I mean,</p> <p>18 again, I don't – I don't recall.</p> <p>19 Q. I understand. Understand.</p> <p>20 When you signed – when you signed</p> <p>21 documents, when you personally signed</p> <p>22 documents, did you typically use a ink pen or</p> <p>23 did you use a stamp?</p> <p>24 A. No, I – I – I use a – an – an</p> <p>25 ink pen.</p>	<p style="text-align: right;">Page 297</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you know – was there a file at</p> <p>3 Highland kept anywhere with ink-signed</p> <p>4 originals of a promissory notes in general or</p> <p>5 these two promissory notes specifically?</p> <p>6 MR. MORRIS: Objection to the form</p> <p>7 of the question.</p> <p>8 A. Sorry, I just want to make sure I</p> <p>9 understand your question. Are you saying is</p> <p>10 there a file somewhere that has ink-signed</p> <p>11 originals of these two promissory notes?</p> <p>12 Q. Yes.</p> <p>13 A. I would – I would assume they're</p> <p>14 some place. I mean –</p> <p>15 Q. Well, was there a – was there a</p> <p>16 place where Highland generally kept originals</p> <p>17 of promissory notes owed to it?</p> <p>18 A. I wouldn't – no.</p> <p>19 MR. RUKAVINA: Mr. Nguyen, would you</p> <p>20 please pull up my A7, alpha 7.</p> <p>21 Q. These are the two promissory notes,</p> <p>22 Mr. Waterhouse.</p> <p>23 (Exhibit A7 marked.)</p> <p>24 Q. And please – Mr. Waterhouse, please</p> <p>25 command my associate to scroll down as you need</p>

<p style="text-align: right;">Page 298</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to, but I want you to take a very close look at</p> <p>3 your two signatures here and tell me whether</p> <p>4 you believe, in fact, that you ink signed them</p> <p>5 or whether you –</p> <p>6 MS. DANDENEAU: Mr. Rukavina,</p> <p>7 Mr. Waterhouse has the copies.</p> <p>8 MR. RUKAVINA: Perfect. Then you</p> <p>9 can take this down, Mr. Nguyen.</p> <p>10 A. These – these – these signatures</p> <p>11 are identical, now that I stare at them, and I</p> <p>12 mean, they are so close – I mean, they're</p> <p>13 identical that, I mean, even with my chicken</p> <p>14 scratch signature, I don't know if I can – you</p> <p>15 know, I do this 100 times, could I do that</p> <p>16 as – as precisely as I see between the two</p> <p>17 notes.</p> <p>18 Q. Well, that is why I ask.</p> <p>19 Mr. Waterhouse, now that you have examined</p> <p>20 them, does it seem like it is more likely that</p> <p>21 you actually electronically signed these?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Is – I don't – I don't recall</p> <p>25 specifically. As I said before, my assistant</p>	<p style="text-align: right;">Page 299</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 did have a – an electronic signature, and that</p> <p>3 was used from time to time. It wasn't as</p> <p>4 common practice back in 2019. It definitely</p> <p>5 was more common practice when we had to work</p> <p>6 from home and remotely for COVID because it</p> <p>7 that made it almost impossible to, right,</p> <p>8 provide wet signatures since we're all working</p> <p>9 from home remotely.</p> <p>10 Q. Well, going just for these two</p> <p>11 promissory notes, Mr. Waterhouse, in light of</p> <p>12 your inability to remember any details, are you</p> <p>13 sure you actually signed either or both of</p> <p>14 those notes?</p> <p>15 MS. DANDENEAU: Objection to form.</p> <p>16 A. I don't recall specifically</p> <p>17 signing – actually physically signing these</p> <p>18 notes. As I said before, I don't recall doing</p> <p>19 that. This – this looks like my signature,</p> <p>20 but yet these two signatures are identical.</p> <p>21 Q. So you don't recall physically</p> <p>22 signing them, and I take it you don't recall</p> <p>23 electronically signing them either?</p> <p>24 A. I don't recall. You know, Highland</p> <p>25 has all my emails. If that occurred, you know,</p>
<p style="text-align: right;">Page 300</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 you know, I don't have any of these records is</p> <p>3 what I'm saying. I don't have any of those</p> <p>4 records.</p> <p>5 Q. That is why I'm asking you these</p> <p>6 questions in great detail because I don't have</p> <p>7 those emails. I'm trying to – I'm hoping that</p> <p>8 you will give me some names or some details so</p> <p>9 I can go look for more emails, but again, you</p> <p>10 don't remember any – any individual, other</p> <p>11 than Mr. Dondero that we've discussed, you</p> <p>12 don't remember any individual with whom you</p> <p>13 discussed these promissory notes prior to their</p> <p>14 execution?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I don't recall discussing it with</p> <p>18 anybody else.</p> <p>19 Q. Okay.</p> <p>20 A. I mean, prior –</p> <p>21 Q. I understand.</p> <p>22 A. You know, there was no one else –</p> <p>23 there was no one else in that meeting that I</p> <p>24 recall with Mr. Dondero.</p> <p>25 Q. Now, when you established that by</p>	<p style="text-align: right;">Page 301</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 May of 2019 –</p> <p>3 A. And – and from what I recall, and</p> <p>4 the reason why I was by myself is – is, you</p> <p>5 know, I don't – I don't want to speculate, I'm</p> <p>6 sorry.</p> <p>7 Q. Okay. We have established that by</p> <p>8 May of 2019, in your view, the liabilities of</p> <p>9 HCMFA exceeded its assets; correct?</p> <p>10 A. Yeah. I mean, again, I don't have</p> <p>11 financial statements in front of me, but I</p> <p>12 think, if I recall, we'd have to go through the</p> <p>13 testimony with Mr. Morris, I believe that was</p> <p>14 the case.</p> <p>15 Q. In fact, you will recall that in</p> <p>16 April of 2019, Mr. Dondero signed a document</p> <p>17 that extended the demand feature of two prior</p> <p>18 notes to May 31, 2019. Do you recall that?</p> <p>19 MS. DEITSCH-PEREZ: I think you</p> <p>20 might – maybe have the court reporter read</p> <p>21 that back. You might have misspoke.</p> <p>22 (Record read.)</p> <p>23 MR. RUKAVINA: And I did misspeak.</p> <p>24 Q. I meant to say to May 31, 2021. Do</p> <p>25 you recall that, sir?</p>

<p style="text-align: right;">Page 302</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. MORRIS: Objection to the form</p> <p>3 of the question.</p> <p>4 A. Yes.</p> <p>5 MR. RUKAVINA: And, Mr. Nguyen, just</p> <p>6 so that the record is clear, will you please</p> <p>7 pull up my Exhibit Alpha 10, A10.</p> <p>8 (Exhibit A10 marked.)</p> <p>9 Q. You don't have this one in front of</p> <p>10 you, Mr. Waterhouse? This is the one that</p> <p>11 Mr. Morris used earlier. Do you see that</p> <p>12 document, sir?</p> <p>13 A. Yes, I do.</p> <p>14 Q. And this is what you were testifying</p> <p>15 about before when Mr. Morris was asking you.</p> <p>16 Do you remember that?</p> <p>17 A. Yes.</p> <p>18 Q. So here is my question for you,</p> <p>19 Mr. Waterhouse: As the chief financial officer</p> <p>20 of Highland, was it prudent for Highland less</p> <p>21 than three weeks later to be lending</p> <p>22 \$7.2 million to an insolvent entity that</p> <p>23 couldn't even then pay its debts back to</p> <p>24 Highland?</p> <p>25 MS. DANDENEAU: Objection to form.</p>	<p style="text-align: right;">Page 303</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. MORRIS: Objection to the form</p> <p>3 of the question.</p> <p>4 A. Sorry, I just want to make sure –</p> <p>5 are you asking me, did you say, was it prudent</p> <p>6 for Highland to loan \$7.4 million to HCMFA a</p> <p>7 few weeks after this document was executed?</p> <p>8 Q. Yes, and at a time when HCMFA's</p> <p>9 liabilities exceeded its assets.</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 A. I don't – it is odd. I don't know.</p> <p>13 MR. RUKAVINA: You can take this</p> <p>14 exhibit down, Mr. Nguyen.</p> <p>15 Q. Do you recall asking anyone,</p> <p>16 Mr. Dondero or – or anyone outside as to</p> <p>17 whether Highland ought to be lending</p> <p>18 \$7.4 million to HCMF regarding HCMF's</p> <p>19 creditworthiness?</p> <p>20 MR. MORRIS: Objection to the form</p> <p>21 of the question.</p> <p>22 A. I don't recall.</p> <p>23 Q. Did you receive personally any of</p> <p>24 that \$7.4 million?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 304</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Did you even –</p> <p>3 MR. MORRIS: I didn't hear that</p> <p>4 question, sir.</p> <p>5 MR. RUKAVINA: The one that he</p> <p>6 answered, John, or my new one?</p> <p>7 MR. MORRIS: No, no, your question,</p> <p>8 Davor.</p> <p>9 MR. RUKAVINA: I had asked him</p> <p>10 whether he received any of the</p> <p>11 \$7.4 million. He said no.</p> <p>12 MR. MORRIS: Yeah. I thought there</p> <p>13 was a question after that. Maybe I was</p> <p>14 mistaken. I apologize.</p> <p>15 MR. RUKAVINA: I had started a new</p> <p>16 question, so here, let me start the new</p> <p>17 question again.</p> <p>18 Q. Did you personally receive any</p> <p>19 direct benefit from those two notes for</p> <p>20 \$7.4 million?</p> <p>21 A. No.</p> <p>22 Q. Did you ever personally consider</p> <p>23 yourself obligated to repay either or both of</p> <p>24 those notes?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 305</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. RUKAVINA: Pull up those notes</p> <p>3 again, Mr. Nguyen.</p> <p>4 Q. You can have them in front of you,</p> <p>5 Exhibit 7, Mr. Waterhouse, whatever is easier</p> <p>6 for you. If you go to your signature page, my</p> <p>7 question to you is, why did you not include</p> <p>8 your title as treasurer by your name, Frank</p> <p>9 Waterhouse?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. I didn't – I didn't draft this</p> <p>12 document.</p> <p>13 Q. So you relied on whoever drafted it</p> <p>14 to draft it correctly?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. But back then when you signed</p> <p>17 this, did it ever cross your mind that you were</p> <p>18 the maker on these notes?</p> <p>19 A. No.</p> <p>20 Q. Back then when you signed this</p> <p>21 document, did it ever cross your mind that you</p> <p>22 could be a co-obligor on these notes?</p> <p>23 A. No. I didn't receive \$7.4 million,</p> <p>24 I mean...</p> <p>25 Q. But can you say that HCMFA received</p>

<p style="text-align: right;">Page 306</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 \$7.4 million?</p> <p>3 A. I would have to go back and look and</p> <p>4 check in, you know, the – the financial</p> <p>5 records and the bank statements.</p> <p>6 MR. RUKAVINA: You can take this</p> <p>7 exhibit down, Mr. Nguyen.</p> <p>8 Q. Mr. Waterhouse, I'm not trying to be</p> <p>9 a smart-ass, but if the law says that because</p> <p>10 of the way that you signed this promissory</p> <p>11 note, if that is what the law says, that that</p> <p>12 made you personally – personally liable, then</p> <p>13 you would agree with me that that was never</p> <p>14 your intent?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. That was never – I wouldn't sign a</p> <p>18 note and not get consideration in return.</p> <p>19 Q. So putting all other issues aside,</p> <p>20 if the law – if the law says that you were</p> <p>21 liable for those notes because of how you</p> <p>22 signed them, then would you agree with me that</p> <p>23 these notes are a mistake?</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">Page 307</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: Objection to the</p> <p>3 form.</p> <p>4 A. Yes.</p> <p>5 Q. So do you agree with me that it's</p> <p>6 odd – I think that is the word you used –</p> <p>7 that Highland would be loaning \$7.4 million a</p> <p>8 few weeks after that extension to an entity</p> <p>9 whose liabilities exceeded its assets, and you</p> <p>10 would agree with me that it was never your</p> <p>11 intention to be in any way liable for these two</p> <p>12 promissory notes; correct?</p> <p>13 MR. MORRIS: Objection to the form</p> <p>14 of the question.</p> <p>15 A. Sorry, you – you asked a lot there.</p> <p>16 MR. RUKAVINA: I will strike it and</p> <p>17 I will move on.</p> <p>18 Let's go to – pull up Exhibit 9,</p> <p>19 please Mr. Nguyen – Alpha 9, I'm sorry, Alpha</p> <p>20 9, A9.</p> <p>21 (Exhibit A9 marked.)</p> <p>22 Q. Sir, take a moment to look at this,</p> <p>23 but this is an email, and you will see attached</p> <p>24 July 31, 2020 affiliate notes.</p> <p>25 Do you see that attachment?</p>
<p style="text-align: right;">Page 308</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And do you see an entry for</p> <p>4 Highland Capital Management Fund Advisors?</p> <p>5 MR. MORRIS: I'm sorry, hold on.</p> <p>6 Where are you looking?</p> <p>7 MR. RUKAVINA: Last page, John.</p> <p>8 MR. MORRIS: Is it the page on the</p> <p>9 screen?</p> <p>10 MR. RUKAVINA: Oh, I'm sorry.</p> <p>11 Mr. Nguyen just did it. Yes, the last page</p> <p>12 there.</p> <p>13 MR. MORRIS: Thank you.</p> <p>14 Q. Do you see an entry there for HCMFA?</p> <p>15 A. Yes.</p> <p>16 Q. About \$10.5 million.</p> <p>17 Do you see that?</p> <p>18 A. I do.</p> <p>19 Q. And, now, do you have any</p> <p>20 explanation for why if HCMFA owed \$7.4 million,</p> <p>21 plus the 5.3 million that had been extended,</p> <p>22 why that amount was only 10.5 million?</p> <p>23 A. I don't know. Okay.</p> <p>24 MR. RUKAVINA: Close this one and</p> <p>25 pull up, Mr. Nguyen, the schedules,</p>	<p style="text-align: right;">Page 309</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 schedule of assets. What exhibit is this</p> <p>3 of ours, Mr. Nguyen?</p> <p>4 MR. NGUYEN: This is A11.</p> <p>5 MR. RUKAVINA: Oh, this will be A11.</p> <p>6 (Exhibit A11 marked.)</p> <p>7 Q. You don't have this in front of you,</p> <p>8 Mr. Waterhouse?</p> <p>9 A. Okay.</p> <p>10 Q. This is what Mr. Morris used</p> <p>11 earlier. Do you remember looking at this with</p> <p>12 Mr. Morris?</p> <p>13 A. Yes.</p> <p>14 MR. RUKAVINA: You might have to</p> <p>15 zoom in a little. Okay.</p> <p>16 Q. Now, I see Affiliate Note A, B, and</p> <p>17 C.</p> <p>18 Do you have any recollection as to</p> <p>19 why the names of the affiliates are omitted?</p> <p>20 A. I don't. I testified earlier that,</p> <p>21 you know, the team worked with DSI in providing</p> <p>22 these. I – I don't – I don't know.</p> <p>23 Q. Can we deduce – is it logical to</p> <p>24 deduce that Affiliate Note A would be NexPoint</p> <p>25 given its size of \$24.5 million?</p>

<p style="text-align: right;">Page 310</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. MORRIS: Objection to the form</p> <p>3 of the question.</p> <p>4 A. I mean, it – it is a – it is – it</p> <p>5 is approximate.</p> <p>6 Q. Well, can we – can we deduce – or,</p> <p>7 I'm sorry, strike that.</p> <p>8 Can you, sitting here today,</p> <p>9 logically conclude that Affiliate Note B or C</p> <p>10 represents HCMFA?</p> <p>11 MR. MORRIS: Objection to the form</p> <p>12 of the question.</p> <p>13 A. I don't know. I don't know. I</p> <p>14 can't.</p> <p>15 Q. Okay. As of the petition date, we</p> <p>16 have established that HCMFA, under promissory</p> <p>17 notes, owed \$7.4 million and \$5.3 million to</p> <p>18 the debtor; correct?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And by my reckoning, that</p> <p>23 would be somewhere approaching \$13 million.</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">Page 311</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. It would be \$12.7 million. Is that</p> <p>3 generally correct?</p> <p>4 A. Sorry, the amounts were 7.4, 5.3.</p> <p>5 Q. Yes.</p> <p>6 A. Okay. Yeah, that – that – I can</p> <p>7 do that math, yes.</p> <p>8 Q. Do you have any explanation or any</p> <p>9 understanding of why there is no similar entry</p> <p>10 listed here on the schedule of assets filed</p> <p>11 with the bankruptcy court?</p> <p>12 MR. MORRIS: Objection to the form</p> <p>13 of the question.</p> <p>14 A. I don't know. We have to look at</p> <p>15 the supporting schedules, like I talked about</p> <p>16 other – presumably there is – there is a</p> <p>17 build to the schedule that would provide the</p> <p>18 detail.</p> <p>19 Q. Well, that was going to be my next</p> <p>20 question. You anticipated it.</p> <p>21 MR. RUKAVINA: You can – you can</p> <p>22 take this down, Mr. Nguyen.</p> <p>23 Q. Do you believe that whenever you and</p> <p>24 your team provided the underlying data to the</p> <p>25 financial advisor that the actual names of the</p>
<p style="text-align: right;">Page 312</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 affiliates for Affiliate Note A, B, and C would</p> <p>3 have been listed there?</p> <p>4 A. Are you asking we provided the names</p> <p>5 to the financial advisor? I don't – I don't</p> <p>6 understand who the financial advisor is.</p> <p>7 Q. I'm sorry, DSI.</p> <p>8 Let me ask the question this way,</p> <p>9 Mr. Waterhouse.</p> <p>10 Whenever you provided information</p> <p>11 about the affiliate notes to DSI, do you</p> <p>12 believe that you would have included the actual</p> <p>13 names of the affiliates, you or your team, or</p> <p>14 that you would have done the Affiliate Note A,</p> <p>15 Note B, Note C?</p> <p>16 MR. MORRIS: Objection to the form</p> <p>17 of the question.</p> <p>18 MS. DANDENEAU: Objection to the</p> <p>19 form.</p> <p>20 A. We – like I testified earlier, when</p> <p>21 we were – we gave everything to – to DSI. We</p> <p>22 were giving all of our records, all of our</p> <p>23 files, everything to DSI. We weren't redacting</p> <p>24 information or saying, hey, here is a note,</p> <p>25 here is Affiliate Note A or B.</p>	<p style="text-align: right;">Page 313</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 I mean, it was – our job and our</p> <p>3 focus – and I testified in court back in 2019;</p> <p>4 right – was – was to be transparent and, you</p> <p>5 know, get DSI up to speed on – on the matters</p> <p>6 at Highland. So I can't see us redacting at</p> <p>7 that point.</p> <p>8 MR. RUKAVINA: Mr. Nguyen, will you</p> <p>9 please pull up Mr. Morris' Exhibit 36.</p> <p>10 Just the very first page, the very top</p> <p>11 email. You might zoom in a little bit.</p> <p>12 Q. Now, you recall being asked about</p> <p>13 this by Mr. Morris?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And you wrote: The HCMFA note is a</p> <p>16 demand note.</p> <p>17 You wrote that; right?</p> <p>18 A. Yes.</p> <p>19 Q. And, in fact, weren't there by that</p> <p>20 point in time several notes?</p> <p>21 A. Yes, there were. Again, I don't –</p> <p>22 I don't remember everything specifically. I</p> <p>23 mean –</p> <p>24 Q. I understand. I understand.</p> <p>25 So this is an example where – where</p>

<p style="text-align: right;">Page 314</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 you might have made a mistake by referring to a</p> <p>3 singular instead of a plural; right?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And you – you wrote – a</p> <p>6 couple of sentences later, you wrote: There</p> <p>7 was an agreement between HCMLP and HCMFA the</p> <p>8 earliest they could demand is May 2021.</p> <p>9 You wrote that; right?</p> <p>10 A. Yes.</p> <p>11 Q. But I think you – you agreed with</p> <p>12 Mr. Morris that that can't possibly apply to</p> <p>13 the May 2019 notes, can it?</p> <p>14 MR. MORRIS: Objection to the form</p> <p>15 of the question. That is not what he</p> <p>16 testified to.</p> <p>17 Q. Let me ask – let me ask a different</p> <p>18 question.</p> <p>19 Sitting here today – or if you can</p> <p>20 answer me from your memory on October 6,</p> <p>21 2020 – did the April acknowledgment that</p> <p>22 extended the maturity date apply to the</p> <p>23 May 2019 notes also?</p> <p>24 A. I don't recall specifically.</p> <p>25 Q. Well, you recall that the notes that</p>	<p style="text-align: right;">Page 315</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 you signed were demand notes; right?</p> <p>3 A. Yes.</p> <p>4 Q. Do you find it logical, based on</p> <p>5 your experience, that had they intended to have</p> <p>6 a different or a set maturity date, you would</p> <p>7 have instructed that that set maturity date be</p> <p>8 included instead of a demand feature?</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. Sorry, just want to make sure I</p> <p>12 understand. You are saying that – that the</p> <p>13 \$5 million note, the \$2.4 million note, if</p> <p>14 those were supposed to be a term note, that I</p> <p>15 would have made sure that those were a term</p> <p>16 note?</p> <p>17 Q. I'm saying – I'm saying,</p> <p>18 Mr. Waterhouse, that on May the 2nd and May the</p> <p>19 3rd, 2019, if you intended that those two</p> <p>20 promissory notes could not be called until May</p> <p>21 2021, would you have included such language in</p> <p>22 those two promissory notes?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. I guess – I'm sorry, I don't recall</p>
<p style="text-align: right;">Page 316</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 putting language in those May notes. I don't</p> <p>3 remember what language you are referring to.</p> <p>4 Q. Well, let's read this again.</p> <p>5 There was an agreement between HCMLP</p> <p>6 and HCMFA the earliest they could demand is May</p> <p>7 2021.</p> <p>8 Do you recall that agreement?</p> <p>9 A. Yes, that was the agreement we</p> <p>10 looked at earlier; correct?</p> <p>11 Q. Okay. Yes.</p> <p>12 Do you – do you understand now that</p> <p>13 that agreement that we looked at earlier also</p> <p>14 applied to the May 2019 notes that you signed?</p> <p>15 A. I don't – I don't know.</p> <p>16 Q. But as of October 6, 2020, you're</p> <p>17 writing that there is one demand note and</p> <p>18 you're categorizing that demand note as not</p> <p>19 being demandable on May 2021; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you know now that you made at</p> <p>22 least one mistake in this email; correct?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 317</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. RUKAVINA: You can pull this</p> <p>3 down, Mr. Nguyen.</p> <p>4 Q. So, Mr. Waterhouse, you don't</p> <p>5 remember Mr. Dondero telling you to make these</p> <p>6 loans or not. HCMLP was loaning \$7.4 million</p> <p>7 to someone that their assets were less than</p> <p>8 their liabilities.</p> <p>9 We don't see on the July list of</p> <p>10 notes, where there is \$12.7 million of notes,</p> <p>11 we don't see that on the bankruptcy schedules,</p> <p>12 and we have this Exhibit 36 where you are</p> <p>13 confused.</p> <p>14 Are you prepared to tell me, sir,</p> <p>15 today that you might have made a mistake in</p> <p>16 executing those two promissory notes?</p> <p>17 MR. MORRIS: Objection to the form</p> <p>18 of the question.</p> <p>19 A. I – I don't know.</p> <p>20 Q. And if it turns out that you're</p> <p>21 personally liable for those promissory notes,</p> <p>22 it would certainly be a mistake, wouldn't it?</p> <p>23 MS. DANDENEAU: Objection to the</p> <p>24 form.</p> <p>25 MR. MORRIS: Join.</p>

<p style="text-align: right;">Page 318</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. If Mr. Dondero testifies that he</p> <p>4 never told you to make these loans, would you</p> <p>5 disagree with his testimony?</p> <p>6 MR. MORRIS: Objection to the form</p> <p>7 of the question.</p> <p>8 A. Like I testified earlier with my</p> <p>9 conversation with Mr. Dondero, all I recall is</p> <p>10 he said, get the money from Highland.</p> <p>11 Q. And if Mr. Dondero testifies that</p> <p>12 he, in consultation with other senior personnel</p> <p>13 at Highland, decided that Highland needed to</p> <p>14 pay HCMFA \$7.4 million as compensation for the</p> <p>15 NAV error and not a loan, would you have any</p> <p>16 reason to disagree with Mr. Dondero?</p> <p>17 MR. MORRIS: Objection to the form</p> <p>18 of the question.</p> <p>19 A. If that was – if that was his</p> <p>20 intent, yes, it would – I would –</p> <p>21 Q. Do you have any reason to disagree</p> <p>22 with him?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. If that was his intent, I don't</p>	<p style="text-align: right;">Page 319</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 know. I don't know how I disagree with that.</p> <p>3 Q. And just to confirm, you don't</p> <p>4 remember ever asking Mr. Dondero whether you</p> <p>5 should have two promissory notes prepared?</p> <p>6 A. No.</p> <p>7 Q. And you don't remember discussing</p> <p>8 with Mr. Dondero what the terms of those two</p> <p>9 promissory notes should be?</p> <p>10 A. I don't recall – I testified all I</p> <p>11 recall is he said, get the money from Highland.</p> <p>12 I don't – the – the terms of the note, I</p> <p>13 don't recall ever having a discussion around</p> <p>14 the terms of the note, but since I don't draft</p> <p>15 the notes, that – there could have been a</p> <p>16 conversation with other people later.</p> <p>17 Q. Do you have any memory of whether</p> <p>18 after the notes were drafted, but before you</p> <p>19 signed them, that you communicated with</p> <p>20 Mr. Dondero in any way to just confirm or – or</p> <p>21 get his blessing or ratification to signing</p> <p>22 those notes?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. I don't recall.</p>
<p style="text-align: right;">Page 320</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Again, the only thing you remember,</p> <p>3 sitting here today, was Mr. Dondero said, get</p> <p>4 the money from Highland, and that is it, that</p> <p>5 is all you remember?</p> <p>6 MR. MORRIS: Objection to the form</p> <p>7 of the question.</p> <p>8 A. I testified to that several times.</p> <p>9 This was over two years ago. A lot has</p> <p>10 happened. That is all I recall.</p> <p>11 Q. And help me here. I'm not very</p> <p>12 technologically astute. When you – and I – I</p> <p>13 recognize that you do it rarely, but when you</p> <p>14 sign a document electronically, do you believe</p> <p>15 that there is an electronic record of you</p> <p>16 having authorized or signed a document</p> <p>17 electronically?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of the question.</p> <p>20 A. I – I don't know the tech answer to</p> <p>21 that, but, you know, since I don't have – I</p> <p>22 don't ever attach my signature block</p> <p>23 electronically, my assistant would have done</p> <p>24 that, and if that is done over email like we</p> <p>25 did several times – you know, multiple,</p>	<p style="text-align: right;">Page 321</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 multiple times over COVID, she would attach my</p> <p>3 signature block and then email it out to</p> <p>4 whatever party.</p> <p>5 Q. What was your assistant's name in</p> <p>6 May 2019?</p> <p>7 A. It was Naomi Chisum.</p> <p>8 Q. Is she the only one? I'm sorry, was</p> <p>9 she your only assistant that would have maybe</p> <p>10 facilitated logistically something like you</p> <p>11 just described?</p> <p>12 A. You know, she was out on maternity</p> <p>13 leave at some point. I don't – I don't recall</p> <p>14 those dates where she was out for maternity</p> <p>15 leave. There was – there were folks backing</p> <p>16 her up. I don't recall specifically who</p> <p>17 those – who those, you know, administrative</p> <p>18 assistants were, and I don't recall</p> <p>19 specifically if she was out during this time on</p> <p>20 maternity leave.</p> <p>21 I do know that that she was out for</p> <p>22 a period of time, or who knows, or she could</p> <p>23 have been on vacation that day or, you know, I</p> <p>24 don't know.</p> <p>25 Q. Switching gears now, the two</p>

<p style="text-align: right;">Page 322</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 complaints that have been filed that is against</p> <p>3 HCMFA and NexPoint, did you see any drafts of</p> <p>4 those complaints before they were filed?</p> <p>5 MR. MORRIS: Objection to the form</p> <p>6 of the question, and to the extent that you</p> <p>7 had any communications with counsel or you</p> <p>8 were shown drafts of the complaints by</p> <p>9 counsel while you were employed by</p> <p>10 Highland, I direct you not to answer.</p> <p>11 A. I – I reviewed documents yesterday</p> <p>12 with counsel here. I believe that is the first</p> <p>13 time I have ever seen those.</p> <p>14 Q. Okay. Did you ever discuss with</p> <p>15 Mr. Seery these two lawsuits before or after</p> <p>16 they were filed?</p> <p>17 A. I don't recall.</p> <p>18 Q. Were you ever interviewed by legal</p> <p>19 counsel, to your knowledge, about these</p> <p>20 promissory notes before the complaints were</p> <p>21 filed? Without going into what was said, were</p> <p>22 you ever interviewed by legal counsel?</p> <p>23 MR. MORRIS: Objection to the form</p> <p>24 of the question.</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 323</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Obviously with COVID, it changed,</p> <p>3 but – but before COVID, did you used to meet</p> <p>4 with Mr. Seery from time to time in-person?</p> <p>5 A. Yeah, I mean, so before COVID – so</p> <p>6 we're talking kind of late March, early April,</p> <p>7 right, there was about – I don't remember the</p> <p>8 specific date when the board for Highland was</p> <p>9 appointed. I believe it was around February of</p> <p>10 2020, so maybe there was a month-and-a-half,</p> <p>11 two-month window where we were meeting</p> <p>12 in-person or, you know, like we were actually</p> <p>13 in the office, excuse me, we were in the</p> <p>14 office.</p> <p>15 And, you know, when they were first</p> <p>16 appointed, the board members and Mr. Seery</p> <p>17 were – were definitely down here more</p> <p>18 in-person.</p> <p>19 Q. Did you ever see Mr. Seery taking</p> <p>20 written notes of – of his meetings with you or</p> <p>21 others?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you recall on any Zoom or video</p> <p>24 conference with Mr. Seery, seeing him take</p> <p>25 notes, written notes?</p>
<p style="text-align: right;">Page 324</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. The Zoom calls we had, I don't</p> <p>3 recall having seen video or, you know, or if it</p> <p>4 was on Zoom, I just remember it being – well,</p> <p>5 no, you know what, there were some – you know,</p> <p>6 I take that back.</p> <p>7 So there were – there were some</p> <p>8 times that I did remember seeing Mr. Seery</p> <p>9 on – on some of the Zoom calls.</p> <p>10 Q. Well, let me –</p> <p>11 A. I don't – sorry, I'm thinking. I'm</p> <p>12 thinking – I'm going back. I'm trying to</p> <p>13 process this.</p> <p>14 Q. I can make it much quicker,</p> <p>15 Mr. Waterhouse. I have heard – I have heard</p> <p>16 that Mr. Seery is a copious note taker.</p> <p>17 Do you have any knowledge about</p> <p>18 that?</p> <p>19 A. No.</p> <p>20 Q. Okay. Switching gears yet again,</p> <p>21 and this will be last theme. Do you need a</p> <p>22 restroom break, or are you good to go for</p> <p>23 another half an hour?</p> <p>24 MS. DEITSCH-PEREZ: I need a</p> <p>25 restroom break.</p>	<p style="text-align: right;">Page 325</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MR. RUKAVINA: Can we make it five</p> <p>3 minutes?</p> <p>4 THE WITNESS: Five minutes would be</p> <p>5 great.</p> <p>6 VIDEOGRAPHER: We're going off the</p> <p>7 record at 5:53 p.m.</p> <p>8 (Recess taken 5:53 p.m. to 5:59 p.m.)</p> <p>9 VIDEOGRAPHER: We are back on the</p> <p>10 record at 5:59 p.m.</p> <p>11 Q. Mr. Waterhouse, I had asked you</p> <p>12 earlier about contracts between HCMFA and the</p> <p>13 debtor, and now I'm going to talk about</p> <p>14 contracts between the debtor and NexPoint</p> <p>15 Advisors. Okay?</p> <p>16 A. Okay.</p> <p>17 Q. Now, were there contracts similar to</p> <p>18 the ones with HCMFA that NexPoint had in the</p> <p>19 nature of employee reimbursement and shared</p> <p>20 services?</p> <p>21 A. Yes, they – NexPoint Advisors and</p> <p>22 Highland Capital Management Fund Advisors had</p> <p>23 cost reimbursement and shared services</p> <p>24 agreements with Highland Capital Management,</p> <p>25 L.P.</p>

<p style="text-align: right;">Page 326</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And was that shared services</p> <p>3 agreement, to the best of your understanding,</p> <p>4 in place as of December 31, 2020?</p> <p>5 A. It was – it was terminated at some</p> <p>6 point, and I remember the contracts had</p> <p>7 different termination dates, but I think the –</p> <p>8 the date of termination was January 31st of</p> <p>9 2021, after the termination was put in.</p> <p>10 So yeah, it would be in place at the</p> <p>11 end of the year of December – it would be in</p> <p>12 place at December 31st, 2020.</p> <p>13 Q. And pursuant to that agreement as of</p> <p>14 December 31st, 2020, was the debtor providing</p> <p>15 what you would describe as back office services</p> <p>16 to NexPoint?</p> <p>17 A. Yes.</p> <p>18 Q. Would those have included accounting</p> <p>19 services?</p> <p>20 A. Yes.</p> <p>21 Q. And as part of those accounting</p> <p>22 services, would the debtor have assisted</p> <p>23 NexPoint with paying its bills?</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>	<p style="text-align: right;">Page 327</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. So let's break that up. You were a</p> <p>4 treasurer of NexPoint as well in December of</p> <p>5 2020?</p> <p>6 MR. MORRIS: Objection to the form</p> <p>7 of the question.</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And in December of 2020, did</p> <p>10 NexPoint have its own bank accounts?</p> <p>11 A. Yes.</p> <p>12 Q. And did it use those bank accounts</p> <p>13 to pay various of its obligations?</p> <p>14 A. Yes.</p> <p>15 Q. Did employees of the debtor have the</p> <p>16 ability to cause transfers to be made from</p> <p>17 those bank accounts on behalf of NexPoint?</p> <p>18 A. Yes.</p> <p>19 Q. And is that one of services that the</p> <p>20 debtor provided NexPoint, basically ensuring</p> <p>21 that accounts payable and other obligations</p> <p>22 would be paid?</p> <p>23 A. Yes.</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>
<p style="text-align: right;">Page 328</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. You answered yes?</p> <p>3 A. Yes.</p> <p>4 Q. And the payments, though, whose</p> <p>5 funds would they be made from?</p> <p>6 A. From the bank account of NexPoint</p> <p>7 Advisors. If they were NexPoint advisor</p> <p>8 obligations, it would be made from NexPoint</p> <p>9 Advisors' bank account.</p> <p>10 Q. So let's pull up Exhibit Alpha 1.</p> <p>11 You should have that – it is my Tab 1 or my</p> <p>12 Exhibit 1.</p> <p>13 (Exhibit A1 marked.)</p> <p>14 Q. So this is a – this is a series of</p> <p>15 emails, Mr. Waterhouse. Let's look at the</p> <p>16 first page here, November 25, 2020, between</p> <p>17 Kristin Hendrix and yourself.</p> <p>18 Do you see that, sir?</p> <p>19 A. I do.</p> <p>20 Q. And do you see where Ms. Hendrix</p> <p>21 writes: NPA.</p> <p>22 Do you know what NPA stood for?</p> <p>23 A. Yes.</p> <p>24 Q. And what does it stand for?</p> <p>25 A. NexPoint Advisors.</p>	<p style="text-align: right;">Page 329</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And was that how you-all internally</p> <p>3 at Highland refer to NexPoint Advisors, L.P.?</p> <p>4 A. I mean, yes, amongst other things.</p> <p>5 Q. And she writes at the bottom of her</p> <p>6 email: Okay to release?</p> <p>7 Do you see that?</p> <p>8 A. Yes, I do.</p> <p>9 Q. So what –</p> <p>10 MR. MORRIS: Hold on one second.</p> <p>11 Okay. Go ahead.</p> <p>12 MR. RUKAVINA: Yeah.</p> <p>13 Q. So what is – what is Ms. Hendrix</p> <p>14 here on November 25 asking of you?</p> <p>15 A. She is asking me – so she – these</p> <p>16 are – these are payments – typically we would</p> <p>17 do an accounts payable run every week at the</p> <p>18 end of every Friday. But looking at this date,</p> <p>19 it is Wednesday, November 25th, which means, to</p> <p>20 me, it is likely Thanksgiving weekend.</p> <p>21 So this is the day before</p> <p>22 Thanksgiving, so this is the last kind of –</p> <p>23 kind of day before the holidays and vacation</p> <p>24 and things of that nature. So it is</p> <p>25 effectively the Friday of that week.</p>

<p style="text-align: right;">Page 330</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 So she is – she is putting in all</p> <p>3 the payments for the week because we batch</p> <p>4 payments weekly. And these are the payments</p> <p>5 that go out that week, and she is informing me</p> <p>6 of the payments and – you know, again, at the</p> <p>7 bottom of the email, she is asking for my okay</p> <p>8 to – to release these payments in the wire</p> <p>9 system.</p> <p>10 Q. So these would be accounts payable</p> <p>11 of NexPoint?</p> <p>12 A. I mean, it would be accounts payable</p> <p>13 for all of these entities listed on this email.</p> <p>14 Q. And who was Ms. Hendrix employed by</p> <p>15 in November and December of 2020?</p> <p>16 A. Highland Capital Management.</p> <p>17 Q. Okay. So – so part of the services</p> <p>18 that NexPoint had contracted with was for</p> <p>19 Highland to ensure that NexPoint timely paid</p> <p>20 its accounts payable; is that accurate?</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question. You have got to be</p> <p>23 kidding me.</p> <p>24 Q. Is that accurate?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 331</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And did NexPoint rely on employees</p> <p>3 of the debtor to ensure that NexPoint's</p> <p>4 accounts payable were timely paid?</p> <p>5 MR. MORRIS: Objection to the form</p> <p>6 of the question.</p> <p>7 A. Yes.</p> <p>8 MR. RUKAVINA: Let's flip to the</p> <p>9 next page, Mr. Nguyen, if you will please</p> <p>10 scroll to the next page.</p> <p>11 Q. So this is an email similar to the</p> <p>12 prior one, November 30th.</p> <p>13 Do you see where it says, NPA HCMFA,</p> <p>14 USD \$325,000 one-day loan?</p> <p>15 Do you see that, sir?</p> <p>16 A. I do.</p> <p>17 Q. Do you have any memory of what that</p> <p>18 was?</p> <p>19 A. I don't recall what that – what</p> <p>20 that payment was for.</p> <p>21 Q. Did it sometimes occur that one</p> <p>22 advisor would, on very short-terms, make loans</p> <p>23 to another advisor?</p> <p>24 A. Yes. This – this – this occurred</p> <p>25 from – from – from time to time. It actually</p>
<p style="text-align: right;">Page 332</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 looking at – I'm – I'm looking at the date of</p> <p>3 this email. It is November 30th. It is the</p> <p>4 last day of the month.</p> <p>5 HCMFA has obligations it needs to</p> <p>6 pay to its broker-dealer, which is HCFD. And</p> <p>7 it likely was short funds to make those</p> <p>8 obligations under that – under its agreement,</p> <p>9 and so it provided a one-day loan because on</p> <p>10 the next business day on 12/1 – or the next</p> <p>11 business day in December, it would receive</p> <p>12 management fees from the underlying funds that</p> <p>13 it managed and it would be able to pay back</p> <p>14 that loan to NexPoint Advisors.</p> <p>15 Q. So – so here Ms. Hendrix was</p> <p>16 seeking your approval to transfer \$325,000 from</p> <p>17 NexPoint to HCMFA for a one-day loan; is that</p> <p>18 correct?</p> <p>19 A. That is correct.</p> <p>20 Q. Let's flip to the next page, sir.</p> <p>21 MR. RUKAVINA: And, Mr. Nguyen, if</p> <p>22 you will please scroll down.</p> <p>23 Q. Now we have as an entry for</p> <p>24 \$325,000, 11/30 loan payment.</p> <p>25 Do you see that, sir?</p>	<p style="text-align: right;">Page 333</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. And that is probably the loan that</p> <p>4 was approved on the prior page?</p> <p>5 A. Yes, most likely.</p> <p>6 Q. So is it also true, sir, that in</p> <p>7 addition to accounts payable debtor employees</p> <p>8 would be assisting NexPoint with respect to</p> <p>9 paying back its debt?</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 A. I mean, yes, for loans of this</p> <p>13 nature, yes.</p> <p>14 Q. Well, what about long term loans?</p> <p>15 Was it reasonable for NexPoint to expect debtor</p> <p>16 employees to ensure that NexPoint timely paid</p> <p>17 its obligations under long-term notes?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of the question.</p> <p>20 MS. DANDENEAU: Objection to form.</p> <p>21 A. I mean, that is one of the things</p> <p>22 that the Highland personnel did provide to the</p> <p>23 advisors. Yes, we would – we would – over</p> <p>24 the years, yes, we – we – we – we did do</p> <p>25 that generally. Again, I don't remember</p>

<p style="text-align: right;">Page 334</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 specifically but, yes, generally we – you</p> <p>3 know, we did do that.</p> <p>4 Q. So do you recall – and we can pull</p> <p>5 it up, if need be – that under the NexPoint</p> <p>6 note that Mr. Morris asked you about earlier,</p> <p>7 the one for more than \$30 million, that</p> <p>8 NexPoint was obligated to make an annual</p> <p>9 payment of principal and interest?</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 A. Yes, it was – yes, it – it was an</p> <p>13 amortizing note. It was – you know, from what</p> <p>14 we reviewed earlier, it was payable by</p> <p>15 December 31st of each year. So – but are –</p> <p>16 are you asking me –</p> <p>17 Q. I'm just asking you, sir, if you</p> <p>18 recall the note.</p> <p>19 A. Yes, the \$30 million note, yes, we</p> <p>20 reviewed it earlier, yes.</p> <p>21 Q. And do you recall Mr. Morris had you</p> <p>22 go through the fact that NexPoint had made</p> <p>23 payments in years prior to 2020 on that note?</p> <p>24 A. I do.</p> <p>25 Q. And do you believe that employees of</p>	<p style="text-align: right;">Page 335</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the debtor would have played any role in</p> <p>3 NexPoint having made those prior payments?</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question.</p> <p>6 A. Yes.</p> <p>7 Q. And what role in years prior to 2020</p> <p>8 would employees of the debtor have had with</p> <p>9 respect to NexPoint making that annual payment?</p> <p>10 A. We – we – we would have – I keep</p> <p>11 saying "we." The team would have calculated</p> <p>12 any amounts due under that loan and other</p> <p>13 loans, as – as standard course.</p> <p>14 We would – since we provided</p> <p>15 treasury services to the advisors, we would</p> <p>16 inform the – the – the – we informed</p> <p>17 Mr. Dondero of any cash obligations that are</p> <p>18 forthcoming, whether we do cash projections.</p> <p>19 If, you know, any of these payments</p> <p>20 would have – or, you know, the sum total of</p> <p>21 all of these payments, including any note</p> <p>22 payments, if there were any cash shortfalls, we</p> <p>23 would have informed Mr. Dondero of any cash</p> <p>24 shortfalls. We could adequately plan, you</p> <p>25 know, in instances like that.</p>
<p style="text-align: right;">Page 336</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Or, sorry, we – I say "we" – I</p> <p>3 keep saying "we" – I keep wearing my – again,</p> <p>4 my – my treasurer hat.</p> <p>5 But, yes, it is to – it is to</p> <p>6 inform Mr. Dondero of the obligations of the</p> <p>7 advisors in terms of cash and obligations that</p> <p>8 are – are upcoming and that – and that are –</p> <p>9 are scheduled to be paid.</p> <p>10 Q. And would those obligations that are</p> <p>11 upcoming and scheduled to be paid prior to 2020</p> <p>12 have incurred the annual payment on that</p> <p>13 NexPoint \$30 million note?</p> <p>14 MS. DANDENEAU: Objection to form.</p> <p>15 MS. DEITSCH-PEREZ: Davor, I think</p> <p>16 you misspoke. You might want to just</p> <p>17 repeat the question.</p> <p>18 Q. Okay. Let me repeat the question,</p> <p>19 sir.</p> <p>20 Prior to 2020, those services that</p> <p>21 you just described, would that – on behalf of</p> <p>22 the debtor, would that have included NexPoint's</p> <p>23 payments on the \$30 million note?</p> <p>24 A. Yes.</p> <p>25 Q. So someone at the debtor in treasury</p>	<p style="text-align: right;">Page 337</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 or accounting would have sent some schedule or</p> <p>3 a reminder that a payment would be coming due</p> <p>4 in the future. Is that generally the practice?</p> <p>5 A. Yes, we would – you know, again, I</p> <p>6 didn't – I didn't micromanage the teams, but</p> <p>7 we had a – a corporate accounting calendar</p> <p>8 that we use as kind of a tickler file to keep</p> <p>9 track of payments.</p> <p>10 I actually, you know, don't know how</p> <p>11 actively they're using that in – in prior to</p> <p>12 2020, but it was actively used at some point.</p> <p>13 We did look at NexPoint cash</p> <p>14 periodically and cash for the other advisors as</p> <p>15 well and payments. You know, we – payments</p> <p>16 like this would have appeared in our cash</p> <p>17 projections, in the advisor's cash projections.</p> <p>18 And, again, as like I said earlier,</p> <p>19 they would have appeared there, so there would</p> <p>20 be time to plan for making any of these</p> <p>21 payments.</p> <p>22 Q. And based on your experience, would</p> <p>23 it have been reasonable for NexPoint to rely on</p> <p>24 the debtors' employees to inform NexPoint of an</p> <p>25 upcoming payment due on the \$30 million</p>

<p style="text-align: right;">Page 338</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 promissory note?</p> <p>3 MR. MORRIS: Objection to form of</p> <p>4 the question.</p> <p>5 MS. DANDENEAU: Objection to form.</p> <p>6 A. Yes. Yes, they did. I mean, but I</p> <p>7 mean, but I don't think these – these notes</p> <p>8 were any secret to anybody.</p> <p>9 Q. I understand, and I'm not suggesting</p> <p>10 otherwise.</p> <p>11 MR. RUKAVINA: Please pull up Alpha</p> <p>12 2, Mr. Nguyen.</p> <p>13 (Exhibit A2 marked.)</p> <p>14 Q. Now, this document is similar to the</p> <p>15 ones we've seen before as of December 31, 2020,</p> <p>16 and I don't see under NTA anything there for</p> <p>17 paying the promissory note to Highland.</p> <p>18 Do you see anything like that?</p> <p>19 A. I do not.</p> <p>20 MR. RUKAVINA: You can pull that –</p> <p>21 that exhibit down, Mr. Nguyen.</p> <p>22 Q. You are aware, of course, by now</p> <p>23 that, in fact, NexPoint failed to make the</p> <p>24 payment due December 31, 2020, are you not?</p> <p>25 A. I am aware, and yes, I do understand</p>	<p style="text-align: right;">Page 339</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 it.</p> <p>3 Q. Were you aware that Highland</p> <p>4 accelerated that \$30 million promissory note?</p> <p>5 A. I am aware.</p> <p>6 Q. Were you aware of that acceleration</p> <p>7 at the time that it occurred?</p> <p>8 A. I don't remember specifically.</p> <p>9 Q. Do you recall whether anyone asked</p> <p>10 you – prior to the acceleration, anyone asked</p> <p>11 you at Highland, what Highland should do with</p> <p>12 respect to the missed payment?</p> <p>13 A. Did anyone ask me what Highland</p> <p>14 should do about the missed payment?</p> <p>15 Q. Yes, before acceleration.</p> <p>16 MR. MORRIS: Objection to the form</p> <p>17 of the question.</p> <p>18 A. I mean, what – what I recall is</p> <p>19 there was the – sorry, are you asking me –</p> <p>20 MS. DANDENEAU: Why don't you just</p> <p>21 repeat the question, Mr. Rukavina.</p> <p>22 Q. Let me try again, Mr. Waterhouse,</p> <p>23 let me try again.</p> <p>24 I am saying you're the CFO of</p> <p>25 someone, in this case, Highland, and the</p>
<p style="text-align: right;">Page 340</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 borrower failed to make the required payment.</p> <p>3 Are you with me so far?</p> <p>4 A. I am.</p> <p>5 Q. Did anyone then ask you, what should</p> <p>6 we do with respect to our rights against the</p> <p>7 borrower that missed the payment?</p> <p>8 A. Not that I recall.</p> <p>9 Q. Did you play a role in the decision</p> <p>10 to accelerate that \$30 million promissory note?</p> <p>11 A. I did not.</p> <p>12 Q. Do you recall whether Mr. Seery ever</p> <p>13 asked you before the acceleration as to whether</p> <p>14 he should accelerate the note?</p> <p>15 A. I don't recall.</p> <p>16 Q. And you don't recall when you</p> <p>17 learned of the acceleration itself?</p> <p>18 MR. MORRIS: Objection to the form</p> <p>19 of that question.</p> <p>20 A. It was – it was sometime in</p> <p>21 early – in early 2021. I don't remember</p> <p>22 specifically.</p> <p>23 Q. But do you recall whether it was</p> <p>24 after the acceleration had already been</p> <p>25 transmitted?</p>	<p style="text-align: right;">Page 341</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 MS. DANDENEAU: Objection to the</p> <p>3 form of the question.</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you recall in early to mid</p> <p>6 January of 2021, after the default, discussing</p> <p>7 the default with Mr. Dondero?</p> <p>8 A. I do recall discussing with</p> <p>9 Mr. Dondero after December 31, 2020?</p> <p>10 Q. Yes, the fact of the default.</p> <p>11 A. I don't recall.</p> <p>12 MR. RUKAVINA: Let's pull up my</p> <p>13 Exhibit 6, Alpha 6.</p> <p>14 (Exhibit A6 marked.)</p> <p>15 MR. RUKAVINA: And, Mr. Nguyen, if</p> <p>16 you will please scroll down.</p> <p>17 Q. This email chain begins with you</p> <p>18 writing to Ms. Hendrix on January the 12th:</p> <p>19 NexPoint note to HCMLP.</p> <p>20 Do you see that, sir?</p> <p>21 A. I do.</p> <p>22 Q. Were you discussing this same</p> <p>23 \$30 million note we're talking about right now</p> <p>24 with Ms. Hendrix?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 342</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Do you recall what prompted</p> <p>3 you to send that email to her?</p> <p>4 A. Yes, I had -- I had a conversation</p> <p>5 with Jim.</p> <p>6 Q. Okay. And what -- what did you</p> <p>7 discuss with Jim that led to this email chain?</p> <p>8 A. He -- he called me and he said he</p> <p>9 wanted to make payment on the NexPoint note,</p> <p>10 and I didn't -- I didn't know the -- the amount</p> <p>11 offhand, so I reached out to Kristin and got</p> <p>12 the details and relayed that to him.</p> <p>13 Q. And you see you sent that email to</p> <p>14 her at 11:15 a.m. Does that help you remember</p> <p>15 when you had this discussion with Mr. Dondero?</p> <p>16 In other words, was it that morning or the day</p> <p>17 before, or can you -- can you --</p> <p>18 A. No, it was -- it was that morning.</p> <p>19 Q. And do you recall how you had that</p> <p>20 conversation with him?</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question.</p> <p>23 Q. By telephone, by email, in-person?</p> <p>24 A. Yeah, he -- he called me. I was at</p> <p>25 home. We were working from home here in</p>	<p style="text-align: right;">Page 343</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 December of 2020. He called me from home. He</p> <p>3 said he was in court. He wanted to -- he asked</p> <p>4 about, you know, making payment on the note and</p> <p>5 the amount, and so I didn't have those numbers</p> <p>6 in front of me, so I said I would get back to</p> <p>7 him. I wanted all the details, so here is</p> <p>8 this -- so I reached out to Kristin.</p> <p>9 Q. And then she gave you that</p> <p>10 \$1,406,000 figure?</p> <p>11 MR. RUKAVINA: Mr. Nguyen, if you</p> <p>12 will scroll up, please.</p> <p>13 A. Yes. Yeah, she -- the \$1,406,112.</p> <p>14 Q. And do you recall whether you</p> <p>15 conveyed that amount to Mr. Dondero?</p> <p>16 A. Yes. I -- I called him back and</p> <p>17 gave him -- gave him this amount.</p> <p>18 Q. Are you aware of whether NexPoint,</p> <p>19 in fact, then made that 1 million 406 and</p> <p>20 change payment?</p> <p>21 A. Yes, they did.</p> <p>22 Q. Did you discuss with Mr. Dondero at</p> <p>23 that time, either the first conference or the</p> <p>24 second conference that day -- strike that.</p> <p>25 When you conveyed the number to</p>
<p style="text-align: right;">Page 344</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Mr. Dondero, was -- was it also on January</p> <p>3 12th?</p> <p>4 A. Sorry, when I conveyed the</p> <p>5 \$1.4 million number?</p> <p>6 Q. Yes.</p> <p>7 A. Yes, yes, it was that -- it was --</p> <p>8 Q. So you had --</p> <p>9 A. It was that point.</p> <p>10 Q. Well, to the best of your</p> <p>11 recollection, you had a conference with</p> <p>12 Mr. Dondero by the telephone in the morning,</p> <p>13 and then another conference with him by</p> <p>14 telephone after 11:40 a.m. that morning?</p> <p>15 A. Yeah, I can't remember -- yeah, it</p> <p>16 was either that morning or it could have been,</p> <p>17 you know, early afternoon, but again, I</p> <p>18 remember calling him back, relaying this</p> <p>19 information to him, and he said, okay, pay --</p> <p>20 you know, make -- make this payment.</p> <p>21 Q. And during either of those two</p> <p>22 calls, did you tell Mr. Dondero anything to the</p> <p>23 effect that making those -- I'm sorry, making</p> <p>24 that payment would not de-accelerate the</p> <p>25 promissory note?</p>	<p style="text-align: right;">Page 345</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. No.</p> <p>3 Q. Did you tell him anything to the</p> <p>4 effect that making that payment would not cure</p> <p>5 the default?</p> <p>6 A. No.</p> <p>7 Q. Did you discuss that in any way with</p> <p>8 him?</p> <p>9 A. No, I did not.</p> <p>10 Q. Did he say why he wanted to have</p> <p>11 that \$1.4 million payment made?</p> <p>12 MR. MORRIS: Objection to the form</p> <p>13 of the question.</p> <p>14 A. He -- he -- he didn't go into</p> <p>15 specifics.</p> <p>16 Q. Did he say anything to you to the</p> <p>17 effect that if NexPoint makes that payment,</p> <p>18 then the note will be de-accelerated?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. I don't recall.</p> <p>22 MR. RUKAVINA: You can put this one</p> <p>23 down, Mr. Nguyen.</p> <p>24 Q. And, again, when you say you don't</p> <p>25 recall, you mean you don't remember right now</p>

<p style="text-align: right;">Page 346</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 either way; correct?</p> <p>3 A. Yeah, I don't remember. I don't</p> <p>4 remember us discussing that.</p> <p>5 Q. Now – and we're almost done, I</p> <p>6 promise. I'm just going to – I don't know how</p> <p>7 to ask this question, so I'm just going to try</p> <p>8 to do my best.</p> <p>9 Prior to the default on December 31,</p> <p>10 2020, did Mr. Seery ever tell you any words to</p> <p>11 the effect that you or someone at Highland</p> <p>12 should ensure that NexPoint doesn't make its</p> <p>13 payment?</p> <p>14 A. No.</p> <p>15 Q. Did you have any hint or any belief</p> <p>16 that anyone at NexPoint – I'm sorry, strike</p> <p>17 that.</p> <p>18 Did you have any reason to believe</p> <p>19 that anyone with Highland was actively trying</p> <p>20 to get NexPoint to make that default by not</p> <p>21 paying on December 31?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Are you asking, did any Highland</p> <p>25 employees actively work to make – to</p>	<p style="text-align: right;">Page 347</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 somehow –</p> <p>3 Q. Yes. Let me take a step back. Let</p> <p>4 me take a step back.</p> <p>5 So you are aware now that as a</p> <p>6 result of that default, what was still some</p> <p>7 25-year note was accelerated and became</p> <p>8 immediately due. You are aware of that now;</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And can you see how someone at</p> <p>12 Highland might actually have been pleased with</p> <p>13 that development?</p> <p>14 MR. MORRIS: Objection to the form.</p> <p>15 Q. Not that they were – not that they</p> <p>16 were pleased, but you can see how someone at</p> <p>17 Highland might have been pleased with that</p> <p>18 development?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 MS. DANDENEAU: Object to form.</p> <p>22 A. I don't know how they would have</p> <p>23 reacted to that.</p> <p>24 Q. Okay. But you're not – you're not</p> <p>25 aware of any instructions or any actions being</p>
<p style="text-align: right;">Page 348</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 given or taken at Highland by Mr. Seery, the</p> <p>3 independent board, DSI, that – that would have</p> <p>4 basically led Highland to ensure that NexPoint</p> <p>5 would fail to make that payment?</p> <p>6 A. I'm not aware.</p> <p>7 Q. In other words, there wasn't a trick</p> <p>8 or a settlement; right?</p> <p>9 MS. DEITSCH-PEREZ: Objection to</p> <p>10 form.</p> <p>11 MS. DANDENEAU: Object to form.</p> <p>12 MR. MORRIS: Object to form.</p> <p>13 A. I'm not aware.</p> <p>14 Look, I'm not aware. I'm not in</p> <p>15 every conversation. I mean, and I'm just –</p> <p>16 again, I'm sitting at home. It is the end of</p> <p>17 the year. Again, I'm not aware.</p> <p>18 Q. That is a perfectly legitimate</p> <p>19 answer. I don't know why – why you think</p> <p>20 otherwise.</p> <p>21 Okay. Just give me one second to</p> <p>22 compose my thoughts.</p> <p>23 MS. DEITSCH-PEREZ: While you're</p> <p>24 taking your one second, why don't we take</p> <p>25 three minutes. I will be right back.</p>	<p style="text-align: right;">Page 349</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 VIDEOGRAPHER: Do we want to go off</p> <p>3 the record?</p> <p>4 MR. RUKAVINA: Yes.</p> <p>5 VIDEOGRAPHER: All right. We're</p> <p>6 going off the record at 6:27 p.m.</p> <p>7 (Recess taken 6:27 p.m. to 6:30 p.m.)</p> <p>8 VIDEOGRAPHER: We are back on the</p> <p>9 record at 6:30 p.m.</p> <p>10 MR. HORN: Is Deb back?</p> <p>11 MS. DANDENEAU: Are you asking about</p> <p>12 me? I'm here.</p> <p>13 MR. HORN: Oh, okay. I don't see</p> <p>14 you, sorry.</p> <p>15 Q. Actually, yeah, Mr. Waterhouse, so</p> <p>16 when you had –</p> <p>17 MS. DANDENEAU: Are you asking about</p> <p>18 Deb Dandeneau or Deborah? I mean, there</p> <p>19 are a lot – as we talked about, a lot of</p> <p>20 Debs. I'm here.</p> <p>21 MS. DEITSCH-PEREZ: I'm here.</p> <p>22 MR. HORN: Yes, I was asking about</p> <p>23 DDP.</p> <p>24 MS. DEITSCH-PEREZ: Oh, DDP is here.</p> <p>25 MR. HORN: Okay. Here we go. I'm</p>

<p style="text-align: right;">Page 350</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 going back on mute.</p> <p>3 MS. DANDENEAU: Get the right</p> <p>4 nomenclature.</p> <p>5 Q. Mr. Waterhouse, on January 12th,</p> <p>6 2021, when you had those talks with Mr. Dondero</p> <p>7 about the \$1.4 million payment, did you have a</p> <p>8 communication or a conversation with Mr. Seery</p> <p>9 about that payment after January 12th, 2021?</p> <p>10 A. I don't recall.</p> <p>11 Q. Well, in response to Mr. Dondero</p> <p>12 reaching out to you, do you recall on that day,</p> <p>13 January 12th, talking to Mr. Seery or anyone at</p> <p>14 Highland other than the email chain we just saw</p> <p>15 about Mr. Dondero's call with you?</p> <p>16 A. Did I talk to – I spoke with</p> <p>17 Kristin – I don't know if I spoke to her. I</p> <p>18 likely spoke to Kristin Hendrix because we had</p> <p>19 to get the wire on NexPoint's behalf to make</p> <p>20 the payment to Highland.</p> <p>21 Q. So it is true, then, that – that</p> <p>22 employees of the debtor did actually cause that</p> <p>23 payment to be made when it was made after</p> <p>24 January 12th?</p> <p>25 A. Yes, I mean, we – we – as I</p>	<p style="text-align: right;">Page 351</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 testified earlier, we provided that accounting</p> <p>3 finance treasury function as – under the</p> <p>4 shared services agreement. And so once I</p> <p>5 got the – I talked to Jim, got the approval to</p> <p>6 make this payment, we have to then make the</p> <p>7 payment, or the team does, and so the payment</p> <p>8 was made.</p> <p>9 Q. Okay. But – okay. And – and</p> <p>10 sitting here right now, after Jim called you,</p> <p>11 you don't remember talking to anyone other than</p> <p>12 the – the couple of people you mentioned,</p> <p>13 talking to anyone about something to the effect</p> <p>14 that, hey, Jim wants to make this payment now?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I don't – I don't recall.</p> <p>18 Q. And does that include legal counsel?</p> <p>19 Without going into any detail, on</p> <p>20 January 12th or before that payment was made,</p> <p>21 did you consult with legal counsel about</p> <p>22 anything having to do with the \$1.4 million</p> <p>23 payment?</p> <p>24 A. I don't recall.</p> <p>25 Q. Okay. Thank you, sir, for your</p>
<p style="text-align: right;">Page 352</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 time.</p> <p>3 MR. RUKAVINA: Pass the witness.</p> <p>4 MR. MORRIS: I just have a few</p> <p>5 questions, if I may.</p> <p>6 MS. DEITSCH-PEREZ: Don't you go at</p> <p>7 the end?</p> <p>8 MR. MORRIS: Oh, I apologize. He is</p> <p>9 your witness. I'm surprised you want to</p> <p>10 ask him questions, but go right ahead.</p> <p>11 MS. DEITSCH-PEREZ: Just have a</p> <p>12 couple of things.</p> <p>13 MR. RUKAVINA: And I will just</p> <p>14 object to that, that he's our witness.</p> <p>15 That's not –</p> <p>16 MR. MORRIS: I'm not talking to you.</p> <p>17 I'm not talking to you.</p> <p>18 MS. DANDENEAU: Also, Mr. Morris, it</p> <p>19 is – it is –</p> <p>20 MS. DEITSCH-PEREZ: He is not my</p> <p>21 witness. He's been subpoenaed by you.</p> <p>22 Okay?</p> <p>23 That is no offense, Mr. Waterhouse,</p> <p>24 I'm – I'm not – okay. Anyway.</p> <p>25 EXAMINATION</p>	<p style="text-align: right;">Page 353</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 BY MS. DEITSCH-PEREZ:</p> <p>3 Q. Good evening. I'm very sorry to be</p> <p>4 going last and I know you have had a long and</p> <p>5 taxing day, so I thank you for indulging me.</p> <p>6 The kinds of services that you</p> <p>7 describe that the – that Highland provided for</p> <p>8 NexPoint, did Highland also provide similar</p> <p>9 services to that to HCRE and HCMS?</p> <p>10 A. Yes.</p> <p>11 MR. MORRIS: Objection to the form</p> <p>12 of the question.</p> <p>13 Q. What kind of services did Highland</p> <p>14 provide to HCRE and HCMS?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 MS. DEITSCH-PEREZ: What is your</p> <p>18 objection, John?</p> <p>19 MR. MORRIS: It is vague and</p> <p>20 ambiguous. Unlike the advisors and</p> <p>21 NexPoint, they actually had shared services</p> <p>22 agreements.</p> <p>23 MS. DEITSCH-PEREZ: I got – I</p> <p>24 understand your objection. That is fine.</p> <p>25 Q. Let's take them one at a time.</p>

<p style="text-align: right;">Page 354</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 What kinds of services did Highland</p> <p>3 provide to HCRE?</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question.</p> <p>6 A. HCMS, Highland employees provided</p> <p>7 accounting services, treasury management</p> <p>8 services, potentially legal services. I</p> <p>9 don't – but I wouldn't have been directly</p> <p>10 involved in that. But as far as the teams that</p> <p>11 I manage, it was accounting, treasury, things</p> <p>12 of that nature.</p> <p>13 Q. Okay. And that was for HCM, LLP –</p> <p>14 A. And – and, sorry, it would also be</p> <p>15 any asset valuation if needed as well.</p> <p>16 Q. Okay. We went back and forth on</p> <p>17 each other and I apologize, so just to clarify.</p> <p>18 You were talking about the services</p> <p>19 that Highland Capital Management provided to</p> <p>20 HCMS; is that right?</p> <p>21 A. HCMS. So, again, yes. And</p> <p>22 accounting, treasury, valuation, and also tax</p> <p>23 services too.</p> <p>24 Q. Okay.</p> <p>25 A. Tax services. Look, I'm expanding</p>	<p style="text-align: right;">Page 355</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 this, their HR services as well.</p> <p>3 Q. Okay. And did that include bill</p> <p>4 paying?</p> <p>5 MR. MORRIS: Objection to the form</p> <p>6 of the question.</p> <p>7 Q. Did the services that HCM provided</p> <p>8 to HCMS include bill paying?</p> <p>9 MR. MORRIS: Objection to the form</p> <p>10 of the question.</p> <p>11 A. Yes.</p> <p>12 Q. And did the services that HCMLP</p> <p>13 provided to HCMS include scheduling upcoming</p> <p>14 bills?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. Yes.</p> <p>18 Q. And did HCMLP regularly pay – cause</p> <p>19 to be paid the payments on loans HCMS had from</p> <p>20 HCMLP?</p> <p>21 MR. MORRIS: Objection to the form</p> <p>22 of the question.</p> <p>23 A. Yes.</p> <p>24 Q. Typically – if there is a</p> <p>25 typically, how far in advance of due dates did</p>
<p style="text-align: right;">Page 356</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 HCMLP cause HCMS to pay its bills?</p> <p>3 MR. MORRIS: Objection to the form</p> <p>4 of the question.</p> <p>5 A. I mean, it – it – it depend – it</p> <p>6 depended on the nature of the payment and the</p> <p>7 vendor, but, you know, if there were – if</p> <p>8 there were larger scheduled payments, you know,</p> <p>9 I would like to give at least 30 days notice.</p> <p>10 And that is – that is kind of my</p> <p>11 rule of thumb so no one is surprised.</p> <p>12 Q. Okay. And was it generally HCMLP's</p> <p>13 practice to timely pay HCMS' bills?</p> <p>14 MR. MORRIS: Objection to the form</p> <p>15 of the question.</p> <p>16 A. It – it – it – that depended on</p> <p>17 the nature of the payment.</p> <p>18 Q. Okay. And can you explain what you</p> <p>19 mean by that?</p> <p>20 A. Yeah, I mean if – if it was – I</p> <p>21 mean – if there was some professional fees</p> <p>22 that weren't – you know, they were due but</p> <p>23 they weren't urgent, those fees may not be paid</p> <p>24 as timely as others that have a due date or –</p> <p>25 or things like that.</p>	<p style="text-align: right;">Page 357</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Okay. Are loan payments the kinds</p> <p>3 of thing that HCMLP would pay on time because</p> <p>4 of potential consequences of not paying on</p> <p>5 time?</p> <p>6 MR. MORRIS: Objection to the form</p> <p>7 of the question.</p> <p>8 A. Yes. As I testified earlier, we</p> <p>9 would want to give, you know, notice on – on</p> <p>10 – on larger payments and – and things of that</p> <p>11 nature so we didn't miss due dates.</p> <p>12 Q. Okay. And over the course of time,</p> <p>13 did HCMLP generally pay HCMS' loan payments in</p> <p>14 a timely fashion?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I can't remember specifically, but</p> <p>18 generally, yes.</p> <p>19 Q. Okay. Now, did HCMLP provide</p> <p>20 similar services to HCRE that you have</p> <p>21 described it provided to HCMS?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Yes, but I don't think it – it</p> <p>25 provided – I don't think it provided HR</p>

<p style="text-align: right;">Page 358</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 services.</p> <p>3 Q. Can you describe the accounting and</p> <p>4 treasury services that HCMLP provided for HCRE?</p> <p>5 A. Yeah, it – it would provide</p> <p>6 bookkeeping services on a – on a periodic</p> <p>7 basis. It would make payments, you know, as</p> <p>8 needed.</p> <p>9 Q. Okay. So did it provide –</p> <p>10 A. And – and I believe it – it – it</p> <p>11 provided tax services as well.</p> <p>12 Q. Okay. And so did it provide the</p> <p>13 same kind of bill – did HCMLP provide the same</p> <p>14 kind of bill-paying services for HCRE that it</p> <p>15 provided for HCMS and NexPoint?</p> <p>16 MR. MORRIS: Objection to the form</p> <p>17 of the question.</p> <p>18 A. Yes.</p> <p>19 Q. And over the course of time, did</p> <p>20 HCMLP generally cause to be made the loan</p> <p>21 payments that HCRE owed to HCMLP?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Yes.</p> <p>25 Q. Did HCMLP make loan payment – the</p>	<p style="text-align: right;">Page 359</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 loan payment that was due from HCMS to HCMLP in</p> <p>3 December of 2020?</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question.</p> <p>6 A. I don't believe that payment –</p> <p>7 payment was made.</p> <p>8 Q. Okay. And when HCMLP caused HCMS in</p> <p>9 the past to make loan payments, whose money did</p> <p>10 it use to make those payments?</p> <p>11 MR. MORRIS: Objection to the form</p> <p>12 of the question.</p> <p>13 A. It was the – the money in HCMS's</p> <p>14 operating account would be made to that –</p> <p>15 those moneys would be used to make payment to</p> <p>16 Highland Capital Management.</p> <p>17 Q. Okay. And Highland – is it correct</p> <p>18 that Highland Capital Management personnel had</p> <p>19 the access to HCMS's accounts to be able to</p> <p>20 cause such payments to be made?</p> <p>21 A. Yes, Highland personnel had access</p> <p>22 to those accounts.</p> <p>23 Q. Okay. And so now for HCRE, whose</p> <p>24 money was used when HCMLP caused HCRE</p> <p>25 payments – loan payments to Highland to be</p>
<p style="text-align: right;">Page 360</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 made?</p> <p>3 MR. MORRIS: Objection to the form</p> <p>4 of the question.</p> <p>5 A. It was – it was cash in HCRE's bank</p> <p>6 account that would be used to make payments to</p> <p>7 Highland Capital Management.</p> <p>8 Q. Okay. And so did Highland Capital</p> <p>9 Management have access to HCRE's funds in order</p> <p>10 to be able to make such payments?</p> <p>11 MR. MORRIS: Objection to the form</p> <p>12 of the question.</p> <p>13 A. Personnel at Highland Capital</p> <p>14 Management had access to HCRE's bank account to</p> <p>15 effectuate the payments.</p> <p>16 Q. Okay. And was the payment due from</p> <p>17 HCRE to HCMLP due in December of 2020 made?</p> <p>18 A. It –</p> <p>19 Q. In December of 2020.</p> <p>20 A. It was not.</p> <p>21 Q. Okay. And was there money in HCRE's</p> <p>22 account that would have enabled the payment to</p> <p>23 be made had HCM personnel attempted to make the</p> <p>24 payment?</p> <p>25 MR. MORRIS: Objection to the form</p>	<p style="text-align: right;">Page 361</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. I – I don't recall.</p> <p>4 Q. Do you have any reason to believe</p> <p>5 that either HCRE or HCMS simply didn't have the</p> <p>6 funds on hand to make the December 2020</p> <p>7 payments?</p> <p>8 A. I don't know.</p> <p>9 Q. I guess I'm asking, do you have any</p> <p>10 reason to believe that they didn't have the</p> <p>11 funds?</p> <p>12 A. We managed cash for so many</p> <p>13 different entities and funds, and I don't</p> <p>14 recall, you know, where the cash position was</p> <p>15 for HCRE and HCMS at 12/31/2020.</p> <p>16 Q. Okay.</p> <p>17 A. I just don't recall, and I don't –</p> <p>18 and I don't remember what the loan payment</p> <p>19 obligations were from HCRE to Highland, and</p> <p>20 from HCMS to Highland. I don't recall. I</p> <p>21 don't recall, I mean...</p> <p>22 Q. Let me come at it a different way.</p> <p>23 Were the – were the payments that would</p> <p>24 otherwise have been due in December of 2020</p> <p>25 made in January of 2021 for HCMS and HCRE?</p>

<p style="text-align: right;">Page 362</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I believe the HCRE payment was made</p> <p>3 in January of 2021. I don't recall any</p> <p>4 payments being made from HCMS to Highland.</p> <p>5 Q. If it – how is it the HCRE payment</p> <p>6 came to be made? Why did you make it – why</p> <p>7 did HCM make the payment in January of 2021?</p> <p>8 A. Jim – Jim called me and instructed</p> <p>9 me to – to make the payment on behalf of HCRE,</p> <p>10 Jim Dondero – Jim Dondero.</p> <p>11 Q. Did he seem upset that – that the</p> <p>12 payment had not been made?</p> <p>13 A. Yeah. On the note that was, you</p> <p>14 know, that was the term note, yes, he – he was</p> <p>15 displeased that the – that the payment had not</p> <p>16 been made by year-end.</p> <p>17 Q. Okay. And did you make the – cause</p> <p>18 the payment to be made as – as requested?</p> <p>19 A. Yes.</p> <p>20 Q. And did anyone else from HCM</p> <p>21 participate with you in causing the payment to</p> <p>22 be made to – on the HCRE loan?</p> <p>23 A. Yes. It would have been Kristin</p> <p>24 Hendrix. I – again, I don't – as I testified</p> <p>25 earlier, I'm not an officer of HCRE. I don't</p>	<p style="text-align: right;">Page 363</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 believe I'm an authorized signer. So I</p> <p>3 can't – other personnel have to make payment</p> <p>4 from HCRE to – to – to – to Highland.</p> <p>5 Q. Okay. And in the conversation</p> <p>6 that – that you had with Mr. Dondero when he</p> <p>7 requested the payment to be made, did you say</p> <p>8 to him words to the effect, Jim, this loan is</p> <p>9 going to stay in default, what are you making</p> <p>10 the payment for, anything like that?</p> <p>11 A. No.</p> <p>12 Q. In fact, did you have the impression</p> <p>13 from him that he thought that the loan would</p> <p>14 be – the default would be cured by making the</p> <p>15 payment?</p> <p>16 MR. MORRIS: Objection to the form</p> <p>17 of the question.</p> <p>18 A. Did I get the impression from Jim</p> <p>19 Dondero that the loan would be cured if the</p> <p>20 payment from HCRE –</p> <p>21 Q. Yeah, if that is what he thought.</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. I didn't get any impression from him</p> <p>25 on that at the time.</p>
<p style="text-align: right;">Page 364</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Do you know whether there was an</p> <p>3 HCMS term loan that had a payment due in</p> <p>4 December of 2020?</p> <p>5 A. I don't recall.</p> <p>6 Q. Okay. And so the reason you don't</p> <p>7 recall whether or not there was a payment in</p> <p>8 January of 2021 is because you just don't</p> <p>9 remember whether there was such a loan at all?</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 A. I don't remember. There is – there</p> <p>13 is so many notes, and I mean, demands, and I</p> <p>14 don't – I don't remember. It's a lot to keep</p> <p>15 track in your head.</p> <p>16 Q. I understand, and – and I hear your</p> <p>17 frustration when you have explained that the</p> <p>18 debtor has your documents and you don't, and so</p> <p>19 I fully appreciate it, and this is no knock on</p> <p>20 you. It's a knock on somebody else on this</p> <p>21 call.</p> <p>22 MR. MORRIS: I move to strike. That</p> <p>23 was pretty obnoxious, but go ahead.</p> <p>24 Q. Okay. But so, Mr. Waterhouse, if –</p> <p>25 if a payment on the HCMS loan was made in</p>	<p style="text-align: right;">Page 365</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 January of 2021, do you think it was part of</p> <p>3 the same conversation where Jim Dondero said,</p> <p>4 hey, why didn't that get paid, please make</p> <p>5 that – get that payment done?</p> <p>6 MR. MORRIS: I object to the form of</p> <p>7 the question.</p> <p>8 A. Yes. Likely it would have been – I</p> <p>9 mean, again, I don't recall a payment being</p> <p>10 made, but, you know, again, I don't remember</p> <p>11 everything.</p> <p>12 Q. Okay. Did – at the time you were</p> <p>13 communicating with Kristin Hendrix about the</p> <p>14 payment being made, whichever payments were</p> <p>15 made in January, did she say anything to you</p> <p>16 about the payments not curing the loan</p> <p>17 defaults?</p> <p>18 A. No.</p> <p>19 Q. Okay. All right. So I'm going to</p> <p>20 take you back to very early in the deposition</p> <p>21 when Mr. Morris was asking you about the –</p> <p>22 the – the – the agreement with respect to</p> <p>23 the – the forgiveness element of the loans, so</p> <p>24 that is just to orient you.</p> <p>25 Do you remember that there was a</p>

<p style="text-align: right;">Page 366</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 time that you and Mr. Dondero were</p> <p>3 communicating about potential means of</p> <p>4 resolving the Highland bankruptcy by what was</p> <p>5 colloquially referred to as a pot plan?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And can you tell me generally</p> <p>8 when that was?</p> <p>9 A. Like mid -- mid 2020, sometime in</p> <p>10 2020, mid 2020.</p> <p>11 Q. Okay. And did the process of trying</p> <p>12 to figure out what the numbers should be</p> <p>13 involve looking at what one should pay for the</p> <p>14 Highland assets?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And did there come a time</p> <p>19 when you were proposing some potential numbers</p> <p>20 and Mr. Dondero said something to you like,</p> <p>21 well, why are you including payment for the</p> <p>22 related party notes, those, you know, were</p> <p>23 likely to be forgiven as part of my deferred</p> <p>24 executive compensation?</p> <p>25 MR. MORRIS: Objection to the form</p>	<p style="text-align: right;">Page 367</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. Yes, we did have that conversation.</p> <p>4 Q. Okay. Was that conversation in</p> <p>5 connection with trying to figure out the right</p> <p>6 numbers for a pot plan?</p> <p>7 A. Yeah. I mean, it was -- it was -- I</p> <p>8 mean, Jim -- Jim would ask for, you know,</p> <p>9 most -- most recent asset values, you know, for</p> <p>10 Highland, and -- and myself and the team</p> <p>11 provided those to him, so it was in that</p> <p>12 context.</p> <p>13 Q. Okay. And does that refresh your</p> <p>14 recollection that these communications were in</p> <p>15 2020 rather than 2021?</p> <p>16 MR. MORRIS: Objection to the form</p> <p>17 of the question.</p> <p>18 A. The -- the -- the executive</p> <p>19 compensation discussions were definitely in</p> <p>20 2020.</p> <p>21 Q. Okay. Now, did you ever make</p> <p>22 proposals that took into account Jim's comment</p> <p>23 that the notes were likely to end up forgiven</p> <p>24 as part of his compensation?</p> <p>25 MR. MORRIS: Objection to the form</p>
<p style="text-align: right;">Page 368</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. Yes, we -- the team and myself put</p> <p>4 together, you know, asset summaries of Highland</p> <p>5 at various times for all the assets of</p> <p>6 Highland, and not including the notes.</p> <p>7 Q. Okay. And were those presentations</p> <p>8 communicated to -- to Mr. Seery?</p> <p>9 A. No. Well, look, I didn't tell -- I</p> <p>10 didn't tell Mr. Seery. I don't know what</p> <p>11 Mr. Dondero did with the information.</p> <p>12 Q. Okay.</p> <p>13 A. I did not have conversations with</p> <p>14 Mr. Seery.</p> <p>15 Q. Okay. Do you know who saw the</p> <p>16 presentations that you put together that didn't</p> <p>17 include the value of the related party notes?</p> <p>18 A. We're talking presentations -- these</p> <p>19 are -- these are Excel spreadsheets?</p> <p>20 Q. Uh-huh.</p> <p>21 A. I don't know who -- these were given</p> <p>22 to -- to Jim Dondero. I don't know what was</p> <p>23 done with them after that.</p> <p>24 Q. Okay. You also mentioned earlier</p> <p>25 that sometime during your tenure at Highland</p>	<p style="text-align: right;">Page 369</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 you knew of the practice of giving forgivable</p> <p>3 loans to executives.</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question.</p> <p>6 Q. Can you -- can you tell me what you</p> <p>7 recall about that practice?</p> <p>8 MR. MORRIS: Objection to the form</p> <p>9 of the question.</p> <p>10 A. Yes, so there were -- there were --</p> <p>11 during my tenure at Highland, there were loans</p> <p>12 or -- given to employees that were later</p> <p>13 forgiven at a future date and time.</p> <p>14 Q. Okay. And when the loans were</p> <p>15 given, did the notes, to your recollection, say</p> <p>16 anything about the potential forgiveness term?</p> <p>17 MR. MORRIS: Objection to the form</p> <p>18 of the question.</p> <p>19 A. When you say "did the notes," did</p> <p>20 the promissory notes detail the forgiveness?</p> <p>21 Q. Yes.</p> <p>22 A. Not that I recall.</p> <p>23 Q. And until such time as whatever was</p> <p>24 to trigger the forgiveness occurred, were the</p> <p>25 notes bona fide notes as far as you were</p>

<p style="text-align: right;">Page 370</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 concerned?</p> <p>3 MR. MORRIS: Objection to the form</p> <p>4 of the question.</p> <p>5 A. Yes, similar to – yes.</p> <p>6 Q. Okay. You were going to say similar</p> <p>7 to what?</p> <p>8 A. Mr. Morris earlier today showed</p> <p>9 notes of the financial statements about various</p> <p>10 affiliate loans. I – I – I do recall these</p> <p>11 notes because I – at that time personally</p> <p>12 worked on the – the financial statements of</p> <p>13 Highland. That was, you know, in my role as a</p> <p>14 corporate accountant.</p> <p>15 And there were – those loans</p> <p>16 were – to the partners were detailed in the</p> <p>17 notes to the financial statements, similar to</p> <p>18 what we went through earlier today in the prior</p> <p>19 testimony about what we saw with Highland</p> <p>20 and – and – and the – and HCMFA.</p> <p>21 Q. Is it fair to say that on Highland's</p> <p>22 balance sheet there were any number of assets</p> <p>23 that the value of which could be affected by</p> <p>24 subsequent events?</p> <p>25 MR. MORRIS: Objection to the form</p>	<p style="text-align: right;">Page 371</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. Yes. I mean, yes, that – there</p> <p>4 are. And that is – yes.</p> <p>5 Q. Okay. And is it typical accounting</p> <p>6 practice that until there is some certainty</p> <p>7 about those potential future events, that asset</p> <p>8 value listed on – on the books doesn't take</p> <p>9 into account those potential future events?</p> <p>10 MR. MORRIS: Objection to the form</p> <p>11 of the question.</p> <p>12 A. Yeah, if those – yes. If – if</p> <p>13 those future events, you know, at the time of</p> <p>14 issuance are not known or knowable, like I</p> <p>15 discussed earlier with, like, market practice,</p> <p>16 asset dislocation, or, you know, I mean, things</p> <p>17 like that, you – I mean, it – it could affect</p> <p>18 its fair value –</p> <p>19 Q. Okay.</p> <p>20 A. – in the future.</p> <p>21 Q. And am I correct you wouldn't feel</p> <p>22 compelled to footnote in every possible change</p> <p>23 in – in an asset when those possibilities are</p> <p>24 still remote?</p> <p>25 MR. MORRIS: Objection to the form</p>
<p style="text-align: right;">Page 372</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 of the question.</p> <p>3 A. The accounting standard is you have</p> <p>4 to estimate to the best – you know, to – to</p> <p>5 the best of your ability, the fair value of an</p> <p>6 asset as of the balance sheet date under –</p> <p>7 under GAAP.</p> <p>8 Q. Did – strike that.</p> <p>9 Okay. Give me a minute. I'm</p> <p>10 close – I'm close to done. Let me just go off</p> <p>11 and look at my notes for a second. So take two</p> <p>12 minutes.</p> <p>13 VIDEOGRAPHER: We're going off the</p> <p>14 record at 7:02 p.m.</p> <p>15 (Recess taken 7:02 p.m. to 7:03 p.m.)</p> <p>16 VIDEOGRAPHER: We are back on the</p> <p>17 record at 7:03 p.m.</p> <p>18 Q. Mr. Waterhouse, is it generally your</p> <p>19 understanding that people you work with now</p> <p>20 have been asking the debtor for full and</p> <p>21 unfettered access to their own former files?</p> <p>22 MR. MORRIS: Objection to the form</p> <p>23 of the question.</p> <p>24 A. Yes, I am – I am generally aware.</p> <p>25 Q. Okay. And do you think you could</p>	<p style="text-align: right;">Page 373</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 have been better prepared for this deposition</p> <p>3 if the debtor had complied with those requests?</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question.</p> <p>6 A. I – I – I most certainly – yes.</p> <p>7 I mean, again, these are multiple years,</p> <p>8 multiple years ago, lots and lots of</p> <p>9 transactions.</p> <p>10 You know, we asked about NAV errors</p> <p>11 and, you know, things like that and these</p> <p>12 are – it would make this process a lot more –</p> <p>13 a lot easier and if we had – if we had access</p> <p>14 to that.</p> <p>15 Q. Okay. And has the debtor – is the</p> <p>16 debtor suing you right now?</p> <p>17 A. Yes.</p> <p>18 Q. And is the debtor trying to renege</p> <p>19 on deals that it had previously made with you?</p> <p>20 MR. MORRIS: Objection to the form</p> <p>21 of the question.</p> <p>22 A. Sorry, I need to – it is my</p> <p>23 understanding that the litigation trust is</p> <p>24 suing me. And not being a lawyer, I don't</p> <p>25 know – is that the debtor?</p>

<p style="text-align: right;">Page 374</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Is that – I don't know the</p> <p>3 relationship. So, again, I'm not the lawyers.</p> <p>4 I've said many times. But my understanding is</p> <p>5 the litigation trust is suing me. I could be</p> <p>6 wrong there. I don't know.</p> <p>7 Q. Okay. I understand.</p> <p>8 Someone with some connection to the</p> <p>9 Highland debtor has brought a claim against</p> <p>10 you; is that fair?</p> <p>11 MR. MORRIS: Objection to the form</p> <p>12 of the question.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And is there also some motion</p> <p>15 practice in the bankruptcy where the debtor or</p> <p>16 someone associated with the debtor is</p> <p>17 attempting to undo something that was</p> <p>18 previously resolved with you?</p> <p>19 A. Yes.</p> <p>20 Q. And so in one action somebody is</p> <p>21 associated with the debtors trying to –</p> <p>22 threatening you with trying to take money from</p> <p>23 you, and then in the other – and trying to –</p> <p>24 and in the other they are threatening not to</p> <p>25 pay you things that had previously been agreed;</p>	<p style="text-align: right;">Page 375</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 is that correct?</p> <p>3 MR. MORRIS: Objection to the form</p> <p>4 of the question.</p> <p>5 A. I want to be – yes, I – there</p> <p>6 is – I'm being sued, again, on – on something</p> <p>7 that was agreed to with Mr. Seery and myself.</p> <p>8 I don't – I don't – I don't own that claim.</p> <p>9 Q. Okay.</p> <p>10 A. To be transparent, I don't own that</p> <p>11 claim. So it is not my personal property.</p> <p>12 Q. Okay.</p> <p>13 A. And – and being the nonlawyer, I</p> <p>14 don't know how I can get sued for something</p> <p>15 that I don't owe or, like, I don't own</p> <p>16 anything. I'm not the lawyer. But, I mean, if</p> <p>17 that is – if I'm understanding the facts</p> <p>18 correctly.</p> <p>19 Q. Okay. And the lawsuit that was</p> <p>20 filed that names you, that was just filed</p> <p>21 this – this past week; is that right?</p> <p>22 MS. DANDENEAU: Ms. Deitsch-Perez, I</p> <p>23 do want to interrupt at this point because</p> <p>24 just as I told Mr. Morris, that this is a</p> <p>25 deposition about the noticed litigation.</p>
<p style="text-align: right;">Page 376</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 I really don't want to go – go</p> <p>3 afield –</p> <p>4 MS. DEITSCH-PEREZ: Yeah.</p> <p>5 MS. DANDENEAU: – and open up a</p> <p>6 whole new line of inquiry about the lawsuit</p> <p>7 or the – the motion and the bankruptcy</p> <p>8 court. We will be here all night.</p> <p>9 MS. DEITSCH-PEREZ: And I</p> <p>10 understand.</p> <p>11 Q. My – my point is: Do you feel</p> <p>12 like – like there is some effort by these</p> <p>13 parties related to the debtor to intimidate</p> <p>14 you – not that you – I'm not saying you are</p> <p>15 or you aren't.</p> <p>16 But do you feel like there is some</p> <p>17 effort to intimidate you and maybe an effort to</p> <p>18 deter you from being as prepared as you might</p> <p>19 be in this deposition?</p> <p>20 MR. MORRIS: Objection to the form</p> <p>21 of the question.</p> <p>22 A. I was – I was surprised by the</p> <p>23 lawsuit, by me being named, because, again, I</p> <p>24 don't own the asset and things like that.</p> <p>25 Yeah, I just – I want to move forward with my</p>	<p style="text-align: right;">Page 377</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 life at Skyview.</p> <p>3 MS. DEITSCH-PEREZ: Thank you.</p> <p>4 THE WITNESS: Thank you.</p> <p>5 FURTHER EXAMINATION</p> <p>6 BY MR. MORRIS:</p> <p>7 Q. If I may, I just have a few</p> <p>8 questions.</p> <p>9 Mr. Waterhouse, we saw a number of</p> <p>10 documents that Mr. Rukavina put up on the</p> <p>11 screen where Ms. Hendrix would send you a</p> <p>12 schedule of payments that were due on behalf of</p> <p>13 certain Highland affiliates.</p> <p>14 Do you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. And in each instance she asked for</p> <p>17 your approval to make the payments; is that</p> <p>18 right?</p> <p>19 A. Yes, she did.</p> <p>20 Q. And was that the – was that the</p> <p>21 practice in the second half of 2020 whereby</p> <p>22 Ms. Hendrix would prepare a list of payments</p> <p>23 that were due on behalf of Highland associates</p> <p>24 and ask for approval?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 378</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. And I think you said that there was</p> <p>3 a – a –</p> <p>4 A. It was – I think I testified to</p> <p>5 this earlier when we talked about procedures</p> <p>6 and policy, you know, again, I want to be</p> <p>7 informed of – of – of – of – of any</p> <p>8 payments that are going out. I want to be made</p> <p>9 aware of these payments, and that was just a</p> <p>10 general policy, not just for 2020.</p> <p>11 Q. Okay. So it went beyond 2020?</p> <p>12 A. Yes.</p> <p>13 Q. Is that right?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And the corporate accounting</p> <p>16 group would prepare a calendar that would set</p> <p>17 forth all of the payments that were anticipated</p> <p>18 in the – in the three weeks ahead; is that</p> <p>19 right?</p> <p>20 A. I – like I testified earlier, we</p> <p>21 had a corporate calendar that was set up, you</p> <p>22 know, to – to provide reminders or, you know,</p> <p>23 of anything of any nature, whether it is</p> <p>24 payments or – or financial statements or, you</p> <p>25 know, whatever it is, you know, to meet</p>	<p style="text-align: right;">Page 379</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 deadlines.</p> <p>3 I don't know how, as I testified</p> <p>4 earlier, how much they were using that</p> <p>5 calendar.</p> <p>6 Q. Okay. But – but you did get notice</p> <p>7 and a request to approve the payments that were</p> <p>8 coming due on behalf of Highland's affiliates.</p> <p>9 Do I have that right?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 A. I mean, generally, yes. I mean, you</p> <p>12 know, as we saw with these emails, generally, I</p> <p>13 mean, did that encompass everything, no.</p> <p>14 Q. Okay. Do you know why the</p> <p>15 payment – do you know why there was no payment</p> <p>16 made by NexPoint at the end of 2020?</p> <p>17 A. Yes. There was – there was – we</p> <p>18 talked about these agreements between the</p> <p>19 advisors and Highland, the shared services and</p> <p>20 the cost reimbursement agreement.</p> <p>21 And in late 2020, there were</p> <p>22 overpayments, large overpayments that had been</p> <p>23 made over the years on these agreements, and it</p> <p>24 was my understanding that the advisors were –</p> <p>25 were talking with – like Jim Seery and others</p>
<p style="text-align: right;">Page 380</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 to offset any obligations that the advisors</p> <p>3 owed to Highland as offset to the overpayments</p> <p>4 on these agreements.</p> <p>5 Q. Okay. Did you participate in any of</p> <p>6 those conversations?</p> <p>7 A. I did not.</p> <p>8 Q. Okay. Do you know – do you recall</p> <p>9 that the – at the end of November, the debtor</p> <p>10 did notice to the advisors of their intent to</p> <p>11 terminate the shared services agreements?</p> <p>12 A. Like I testified earlier, there</p> <p>13 was – the agreements weren't identical, from</p> <p>14 what I recall, and there is one that had a</p> <p>15 longer notice period, which I think had a</p> <p>16 60-day notice period. I don't recall which one</p> <p>17 that was, so not all of them were – notice</p> <p>18 hadn't been given as of November 30th, for all</p> <p>19 of the agreements.</p> <p>20 Q. Upon the receipt of the – the</p> <p>21 termination notices that you recall, do you</p> <p>22 know if the advisors decided at that point not</p> <p>23 to make any further payments of any kind to</p> <p>24 Highland?</p> <p>25 MR. RUKAVINA: Objection, form.</p>	<p style="text-align: right;">Page 381</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. No. The advisors – the advisors</p> <p>3 had stopped making payments prior to that</p> <p>4 notice.</p> <p>5 Q. Okay. And how do you know that the</p> <p>6 advisors stopped making – making payments</p> <p>7 prior to the notice?</p> <p>8 A. I had – I had a conversation</p> <p>9 with – with Jim Dondero.</p> <p>10 Q. And did Mr. Dondero tell you that</p> <p>11 the advisors would no longer make payments to</p> <p>12 Highland?</p> <p>13 MS. DEITSCH-PEREZ: Objection to the</p> <p>14 form.</p> <p>15 A. Yes, he – he – again, he said</p> <p>16 they – they – the advisors have overpaid on</p> <p>17 these agreements, to not make any future</p> <p>18 payments, and that there needs to be offsets,</p> <p>19 and they're working on getting offsets to these</p> <p>20 overpayment.</p> <p>21 Q. Do you know if anybody ever</p> <p>22 instructed Highland's employees to make the</p> <p>23 payment that was due by NexPoint at the end of</p> <p>24 the year?</p> <p>25 A. Did anyone instruct Highland's</p>

<p style="text-align: right;">Page 382</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 employees to make that payment?</p> <p>3 Q. Correct.</p> <p>4 A. Anyone – not that I'm aware.</p> <p>5 Q. Were any of Highland's employees</p> <p>6 authorized to make the payments on behalf of</p> <p>7 its affiliates – withdrawn.</p> <p>8 Was any of Highland's employees</p> <p>9 authorized to effectuate the payment on behalf</p> <p>10 of NexPoint that was due at the end of the year</p> <p>11 without getting approval from either you or</p> <p>12 Mr. Dondero?</p> <p>13 A. They had the -- they had the ability</p> <p>14 to make the payment, but they didn't -- you</p> <p>15 know, that -- that payment needed to be</p> <p>16 approved.</p> <p>17 Q. Okay. And it needed to be approved</p> <p>18 by you or Mr. Dondero; is that right?</p> <p>19 A. I mean, I'm not going to make the</p> <p>20 unilateral decision.</p> <p>21 Q. Is that a decision that you</p> <p>22 understood had to be made by Mr. Dondero?</p> <p>23 A. Yes. Sitting back in December of</p> <p>24 2020, the -- that -- there was this off --</p> <p>25 offset negotiation that -- that was happening,</p>	<p style="text-align: right;">Page 383</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 so I mean, until those negotiations were</p> <p>3 resolved, you know, there wasn't any</p> <p>4 payments -- there weren't any payments.</p> <p>5 Q. And -- and there were no payments</p> <p>6 until the negotiations were resolved because</p> <p>7 that was the directive that you received from</p> <p>8 Mr. Dondero; correct?</p> <p>9 A. I don't think he said -- I mean, I</p> <p>10 think -- yeah, I mean -- I'm trying to recall</p> <p>11 the conversation. It was -- you know, there</p> <p>12 is -- there is these negotiations. There's --</p> <p>13 there needs to be these offsets. They're</p> <p>14 talking with the debtor. So, you know, until</p> <p>15 this is resolved, right, I mean, depending on</p> <p>16 how, whatever that resolution was, were we to</p> <p>17 take any action.</p> <p>18 Q. Okay. How about with respect to</p> <p>19 HCMS, did HCMS have a term payment due at the</p> <p>20 end of the year?</p> <p>21 A. Again, I don't -- I don't recall.</p> <p>22 Q. Okay. You discussed briefly two</p> <p>23 payments that were made in January of 2021, one</p> <p>24 on behalf of NexPoint, and one on behalf of</p> <p>25 HCMS. Do I have that right?</p>
<p style="text-align: right;">Page 384</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. No. The two payments I recall were</p> <p>3 NexPoint and HCRE.</p> <p>4 Q. Okay. And those two payments --</p> <p>5 thank you for the correction. And those two</p> <p>6 payments were made because Mr. Dondero</p> <p>7 authorized those payments to be made; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And they hadn't been made before</p> <p>10 that because Mr. Dondero had not authorized</p> <p>11 them to be made?</p> <p>12 MS. DEITSCH-PEREZ: Object to the</p> <p>13 form.</p> <p>14 A. Yes, because of these negotiations.</p> <p>15 Q. Okay. Just a couple of more</p> <p>16 questions.</p> <p>17 Did anybody, to the best of your</p> <p>18 knowledge, on behalf of HCMFA, ever tell the</p> <p>19 SEC that HCMLP was responsible for the mistakes</p> <p>20 that were made on the TerreStar valuation?</p> <p>21 A. Did anyone from Highland on HCMFA's</p> <p>22 behalf tell the SEC that Highland -- that</p> <p>23 Highland was responsible for there -- I just</p> <p>24 want to make sure --</p> <p>25 Q. It was a little bit different, so</p>	<p style="text-align: right;">Page 385</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 let me try again.</p> <p>3 A. These are very long questions, John.</p> <p>4 I'm not trying to be --</p> <p>5 Q. That is good. Do you know whether</p> <p>6 anybody -- do you know whether anybody on</p> <p>7 behalf of HCMS -- HCMFA ever told the SEC that</p> <p>8 Highland was the responsible party for the</p> <p>9 TerreStar valuation error?</p> <p>10 A. Not that I'm aware.</p> <p>11 Q. Okay. Did anybody on behalf of</p> <p>12 the -- on behalf of HCMFA ever tell the retail</p> <p>13 board that Highland was responsible for the</p> <p>14 TerreStar valuation error?</p> <p>15 A. Not that I'm aware.</p> <p>16 Q. Do you know if HCMFA made an</p> <p>17 insurance claim with respect to the damages</p> <p>18 that were incurred in relation to the TerreStar</p> <p>19 valuation error?</p> <p>20 A. Yes.</p> <p>21 Q. And do you know why they made that</p> <p>22 insurance claim?</p> <p>23 A. Because there was an error. I</p> <p>24 mean --</p> <p>25 Q. Was the insured's claim made -- was</p>

<p style="text-align: right;">Page 386</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 the insurance claim made under HCMFA's policy?</p> <p>3 A. Yes.</p> <p>4 Q. Did HCMFA at any time prior to the</p> <p>5 petition date – withdrawn.</p> <p>6 You were asked a couple of questions</p> <p>7 where – where you said that Mr. Dondero told</p> <p>8 you that he was ascribing zero value to the</p> <p>9 notes as part of a pot plan because he believed</p> <p>10 that the notes were part of executive</p> <p>11 compensation.</p> <p>12 Do I have that right?</p> <p>13 MS. DEITSCH-PEREZ: Object to the</p> <p>14 form.</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Have you ever heard that</p> <p>17 before the time that Mr. Dondero told you that</p> <p>18 in the conversation about the pot plan?</p> <p>19 A. Had I heard that prior to my</p> <p>20 conversation with Mr. Dondero?</p> <p>21 Q. Yes.</p> <p>22 A. No, I had not heard that prior.</p> <p>23 Q. Okay. And that was in the context</p> <p>24 of his formulation of the settlement proposal;</p> <p>25 is that right?</p>	<p style="text-align: right;">Page 387</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I mean, generally, yes. You know,</p> <p>3 we were asked to provide asset values, right,</p> <p>4 and he was having settlement discussions.</p> <p>5 Again, I don't know who those went to</p> <p>6 ultimately. I don't recall.</p> <p>7 MR. MORRIS: I have no further</p> <p>8 questions. Thank you very much for your</p> <p>9 patience. I apologize for the late hour.</p> <p>10 MS. DEITSCH-PEREZ: John, you stay</p> <p>11 on about your email when –</p> <p>12 MR. RUKAVINA: Hold on, I'm not</p> <p>13 done.</p> <p>14 MS. DEITSCH-PEREZ: Oh, okay. Davor</p> <p>15 still has questions. Sorry. I was going</p> <p>16 to say both John and Davor, could you stay</p> <p>17 on afterwards just to talk about the</p> <p>18 requests.</p> <p>19 FURTHER EXAMINATION</p> <p>20 BY MR. RUKAVINA:</p> <p>21 Q. Mr. Waterhouse, you were just now</p> <p>22 testifying about a discussion you had with</p> <p>23 Mr. Dondero where he said something like no</p> <p>24 more payments.</p> <p>25 Do you remember that testimony?</p>
<p style="text-align: right;">Page 388</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And was that late November or</p> <p>4 early December of 2020?</p> <p>5 A. It was, I would say, first or second</p> <p>6 week of November.</p> <p>7 Q. Okay. Do you recall whether –</p> <p>8 whenever you had that discussion, whether</p> <p>9 Mr. Dondero had already been fired by the</p> <p>10 debtor?</p> <p>11 A. Yes, I – I believe he was not an</p> <p>12 employee of the debtor anymore at that time.</p> <p>13 Q. And when you were discussing this</p> <p>14 with Mr. Dondero and he said no more payments,</p> <p>15 you were discussing the two shared services</p> <p>16 agreements and employee reimbursement</p> <p>17 agreements we testified – you testified about</p> <p>18 before; is that correct?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. That is correct.</p> <p>22 Q. And had your office or you – and we</p> <p>23 will talk at a future deposition about the</p> <p>24 administrative claim.</p> <p>25 But had – by that time that you</p>	<p style="text-align: right;">Page 389</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 talked to Mr. Dondero, had your office or you</p> <p>3 done any estimate of what the alleged</p> <p>4 overpayments were?</p> <p>5 MR. MORRIS: Objection to the form</p> <p>6 of the question.</p> <p>7 A. Yes, we had – there was a – there</p> <p>8 was a detailed analysis that was put together</p> <p>9 by David Klos at the time.</p> <p>10 Q. And do you recall just generally</p> <p>11 what the total amount for both advisors of the</p> <p>12 overpayments was?</p> <p>13 A. It was in excess of \$10 million.</p> <p>14 Q. Was it in excess of \$14 million?</p> <p>15 MR. MORRIS: Objection to the form</p> <p>16 of the question.</p> <p>17 A. I – I remember it was an</p> <p>18 eight-figure number. I don't remember</p> <p>19 specifically.</p> <p>20 Q. Okay. And did you convey that</p> <p>21 number to Mr. Dondero when you had that</p> <p>22 conversation?</p> <p>23 A. Yes.</p> <p>24 Q. What was his reaction?</p> <p>25 A. I mean, he wasn't happy.</p>

<p style="text-align: right;">Page 390</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Q. Is it fair to say he was upset?</p> <p>3 A. Yes.</p> <p>4 Q. Did Mr. Dondero ever expressly tell</p> <p>5 you to not have NexPoint make the required</p> <p>6 December 31, 2020, payment?</p> <p>7 A. Yes, I recall him saying don't make</p> <p>8 the payment because it was being negotiated, as</p> <p>9 I discussed with Mr. Morris, this offset</p> <p>10 concept. So there were obligations due by the</p> <p>11 advisors to Highland, they should be offset</p> <p>12 that -- you know, those obligations should be</p> <p>13 offset by this -- by this overpayment.</p> <p>14 Q. And when did he tell you that?</p> <p>15 A. I would say -- I would say around --</p> <p>16 probably December -- December-ish.</p> <p>17 Q. Early December, late December?</p> <p>18 A. I don't recall with as much</p> <p>19 specificity as -- as -- as -- as stopping the</p> <p>20 shared services payments, because we had</p> <p>21 actually made one shared services payment in</p> <p>22 November. So that is why I need to remember</p> <p>23 that one more clearly. I don't remember where</p> <p>24 exactly in December that conversation occurred.</p> <p>25 Q. Did Mr. Dondero expressly use the</p>	<p style="text-align: right;">Page 391</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 word "NexPoint" when he was saying don't make</p> <p>3 these payments?</p> <p>4 MR. MORRIS: Objection to the form</p> <p>5 of the question, asked and answered.</p> <p>6 A. Yeah, we were -- we were discussing</p> <p>7 advisor obligations. So it was -- you know, it</p> <p>8 was just obligations from the advisors.</p> <p>9 And -- and he specifically talked</p> <p>10 about the NexPoint payment as well.</p> <p>11 Q. Okay. And it is your testimony that</p> <p>12 he expressly told you not to make that NexPoint</p> <p>13 December 31 payment?</p> <p>14 MR. MORRIS: Objection, asked and</p> <p>15 answered twice.</p> <p>16 A. Yes, he -- he did, during that</p> <p>17 conversation.</p> <p>18 Q. And did you ever follow up with him</p> <p>19 after that about whether NexPoint should or</p> <p>20 shouldn't make that payment?</p> <p>21 A. I did not.</p> <p>22 Q. Did you ever, on or about</p> <p>23 December 31, 2020, remind him and say, hey,</p> <p>24 this payment is due, what shall I -- what</p> <p>25 should I do?</p>
<p style="text-align: right;">Page 392</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. I did not.</p> <p>3 Q. So sitting here today, you -- you</p> <p>4 remember distinctly that Dondero in December of</p> <p>5 2020 expressly told you not to have NexPoint</p> <p>6 make that payment?</p> <p>7 MR. MORRIS: Objection, asked and</p> <p>8 answered three times.</p> <p>9 A. Yes.</p> <p>10 Q. Can you say categorically it wasn't</p> <p>11 just some general discussion where he told you</p> <p>12 not to make payments?</p> <p>13 MR. MORRIS: Objection, asked and</p> <p>14 answer four times.</p> <p>15 MR. HORN: Four times now. Go for</p> <p>16 five.</p> <p>17 A. Yes.</p> <p>18 Q. Did you tell Mr. Seery that?</p> <p>19 A. I don't believe I did. I don't</p> <p>20 recall.</p> <p>21 Q. And was this an in-person discussion</p> <p>22 or telephone or email? Do you remember?</p> <p>23 A. This was a phone -- a phone</p> <p>24 conversation.</p> <p>25 Q. Okay. Would you have a record of --</p>	<p style="text-align: right;">Page 393</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 on your cell phone of when that conversation</p> <p>3 might have taken place?</p> <p>4 I'm sorry, strike that.</p> <p>5 Was that by cell phone?</p> <p>6 A. I believe -- yes, because we -- I</p> <p>7 was at home. I mean, I don't have a landline.</p> <p>8 All I have is my cell phone.</p> <p>9 Q. Do you know whether your cell phone</p> <p>10 still has records of conversations from</p> <p>11 December 2020 on it?</p> <p>12 A. My call log doesn't go back that</p> <p>13 far.</p> <p>14 Q. Okay. Thank you.</p> <p>15 MR. RUKAVINA: I will pass the</p> <p>16 witness.</p> <p>17 MS. DEITSCH-PEREZ: Just a couple</p> <p>18 quick questions.</p> <p>19 FURTHER EXAMINATION</p> <p>20 BY MS. DEITSCH-PEREZ:</p> <p>21 Q. With respect to HCRE and HCMS, am I</p> <p>22 correct there was -- there was no direction not</p> <p>23 to pay those loan payments?</p> <p>24 MR. MORRIS: Objection to the form</p> <p>25 of the question.</p>

<p>Page 394</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 A. Yes, I don't recall having</p> <p>3 conversations about, you know, those – those</p> <p>4 entities.</p> <p>5 Q. And, in fact, what was the tone that</p> <p>6 Mr. Dondero had when he talked to you about the</p> <p>7 fact that HCRE and HCMS payments hadn't been</p> <p>8 made when he found out that they hadn't been</p> <p>9 paid?</p> <p>10 MS. DANDENEAU: Objection to form.</p> <p>11 MR. MORRIS: Objection to form.</p> <p>12 Q. What was the tone he took with you?</p> <p>13 A. Oh, it was – it was – it was – it</p> <p>14 was very negative. I mean, I think he cursed</p> <p>15 at me and he doesn't usually curse.</p> <p>16 Q. Okay. And in your mind, is that</p> <p>17 consistent with the fact that he was surprised</p> <p>18 that those payments hadn't been made?</p> <p>19 MR. MORRIS: Objection to the form</p> <p>20 of the question.</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Thank you.</p> <p>23 MR. MORRIS: I have nothing further.</p> <p>24 Thank you so much, Mr. Waterhouse.</p> <p>25 MR. HORN: I have no questions.</p>	<p>Page 395</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 Thank you, Mr. Waterhouse. We appreciate</p> <p>3 your time. I am logging off the discussion</p> <p>4 and I will talk to y'all tomorrow.</p> <p>5 MR. MORRIS: Super.</p> <p>6 VIDEOGRAPHER: If there are no</p> <p>7 further questions, this ends the</p> <p>8 deposition – excuse me. This ends the</p> <p>9 deposition, and we are going off the record</p> <p>10 at 7:30 p.m.</p> <p>11 (Deposition concluded at 7:30 p.m.)</p> <p>12</p> <p>13</p> <p>14 FRANK WATERHOUSE</p> <p>15</p> <p>16 Subscribed and sworn to before me</p> <p>17 this day of 2021.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 396</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 C E R T I F I C A T E</p> <p>3</p> <p>4 I, SUSAN S. KLINGER, a certified shorthand</p> <p>5 reporter within and for the State of Texas, do</p> <p>6 hereby certify:</p> <p>7 That FRANK WATERHOUSE, the witness whose</p> <p>8 deposition is hereinbefore set forth, was duly</p> <p>9 sworn by me and that such deposition is a true</p> <p>10 record of the testimony given by such witness.</p> <p>11 I further certify that I am not related to</p> <p>12 any of the parties to this action by blood or</p> <p>13 marriage; and that I am in no way interested in</p> <p>14 the outcome of this matter.</p> <p>15 IN WITNESS WHEREOF, I have hereunto set my</p> <p>16 hand this 19th of October, 2021.</p> <p>17</p> <p>18</p> <p>19 Susan S. Klinger, RMR-CRR, CSR</p> <p>20 Texas CSR# 6531</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 397</p> <p>1 WATERHOUSE - 10-19-21</p> <p>2 NAME OF CASE: In re: Highland Capital</p> <p>3 DATE OF DEPOSITION: October 19, 2021</p> <p>4 NAME OF WITNESS: Frank Waterhouse</p> <p>5 Reason Codes:</p> <p>6 1. To clarify the record.</p> <p>7 2. To conform to the facts.</p> <p>8 3. To correct transcription errors.</p> <p>9 Page___Line___Reason_____</p> <p>10 From_____to_____</p> <p>11 Page___Line___Reason_____</p> <p>12 From_____to_____</p> <p>13 Page___Line___Reason_____</p> <p>14 From_____to_____</p> <p>15 Page___Line___Reason_____</p> <p>16 From_____to_____</p> <p>17 Page___Line___Reason_____</p> <p>18 From_____to_____</p> <p>19 Page___Line___Reason_____</p> <p>20 From_____to_____</p> <p>21 Page___Line___Reason_____</p> <p>22 From_____to_____</p> <p>23 Page___Line___Reason_____</p> <p>24 From_____to_____</p> <p>25</p>

Index: \$1,406,000..2

<div>\$</div>	287:15 288:6,20 303:6,18,24 304:11, 20 305:23 306:2 307:7 308:20 310:17 317:6 318:14	129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1	297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 325:1 326:1 327:1 328:1 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1 350:1 351:1 352:1 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1 373:1 374:1 375:1 376:1 377:1 378:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1 388:1 389:1 390:1 391:1 392:1 393:1 394:1 395:1	<div>12/31 6:8</div> <div>12/31/18 117:12 122:12 135:21 261:22</div> <div>12/31/19 219:16</div> <div>12/31/2018 93:15</div> <div>12/31/2019 260:13</div> <div>12/31/2020 361:15</div> <div>12th 341:18 344:3 350:5,9,13,24 351:20</div> <div>135 6:2</div> <div>14-ish 286:21</div> <div>142 5:15</div> <div>15 73:3 200:4 202:13, 23 203:3 210:6 213:18 221:23</div> <div>15(c) 5:21 160:11 169:21,23 170:4,8,10 171:6 175:3,9 176:23 179:20 184:5 195:9 210:12,21</div> <div>150 239:24</div> <div>150,331,222 243:23</div> <div>151 5:20</div> <div>15th 203:15</div> <div>16 224:5</div> <div>17 89:16 109:19 110:8 137:24</div> <div>170 5:21</div> <div>173 110:14</div> <div>18 89:16</div> <div>1900 3:15</div> <div>19th 8:19 21:7</div> <div>1:04 150:24,25</div> <div>1:49 150:25 151:3</div> <div>1c 238:12</div> <div>1st 14:8</div> <div>2</div> <div>2 5:15 35:18 140:18 142:15,16,22 171:10</div>
<div>\$1,406,000 343:10</div> <div>\$1,406,112 343:13</div> <div>\$1.04 109:15</div> <div>\$1.4 344:5 345:11 350:7 351:22</div> <div>\$1.5 223:17</div> <div>\$1.7 92:22</div> <div>\$10 389:13</div> <div>\$10.5 308:16</div> <div>\$12.7 311:2 317:10</div> <div>\$13 310:23</div> <div>\$14 389:14</div> <div>\$150 239:10</div> <div>\$173,398,000 107:7</div> <div>\$2.4 140:14 141:9,18 270:20 271:7,16 272:8 283:18 315:13</div> <div>\$23 220:24</div> <div>\$24 178:19</div> <div>\$24.5 309:25</div> <div>\$30 161:25 220:13,20 223:7 224:2 334:7,19 336:13,23 337:25 339:4 340:10 341:23</div> <div>\$30.7 216:17</div> <div>\$325,000 331:14 332:16,24</div> <div>\$400 239:24</div> <div>\$410 238:9 239:12</div> <div>\$5 142:19 270:20 271:6 272:7 283:18 315:13</div> <div>\$5.3 119:23 310:17</div> <div>\$7 217:16,19 221:7 277:11,20</div> <div>\$7.2 302:22</div> <div>\$7.4 131:13 132:8 138:12 143:12 144:6, 17,23 272:16 273:6</div>	<div>\$7.8 278:6,7</div> <div>\$8 277:16</div> <div>1</div> <div>1 8:9 35:17 139:22 140:12,13 215:25 216:3,7,12 238:8 260:20,23 261:15 328:10,11,12 343:19</div> <div>1/12 6:9</div> <div>10 5:6 197:4,7,9,15 198:2 266:20 267:3 302:7</div> <div>10-19-21 3:1 4:1 5:1 6:1 7:1 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1</div>	<div>10.5 308:22</div> <div>100 108:23 298:15</div> <div>10010 4:21</div> <div>10017 3:10</div> <div>10:08 36:15,16</div> <div>10:11 36:16,18</div> <div>11/25 6:7</div> <div>11/30 332:24</div> <div>11:02 72:25 73:2,5,6</div> <div>11:15 73:3 342:14</div> <div>11:20 73:6,8</div> <div>11:40 344:14</div> <div>11th 152:18,25</div> <div>12/1 332:10</div> <div>12/19 5:25</div>		

172:8 174:13 179:4 195:11,14 215:22,23 216:3,4,5,8,25 338:12 2.4 268:23 282:15 2/18 5:22 20 15:25 271:14 2006 18:15 2011 19:2,4,22 2012 19:2,4 95:25 2013 52:7 2014 20:2 2016 23:19 25:13 87:8,20,24 89:15,16 2017 126:12 161:23 165:22 216:16 220:14 222:10 223:7 224:2,12 2018 105:19 109:14, 20 119:21 165:18 186:25 202:19 203:9 228:3,23 242:18,23 243:12 244:14,18 262:5,15 279:12 2019 6:4 21:7 98:17 99:25 103:2 125:18 126:2 131:10 132:6, 21 133:12 134:5,17, 23 137:6 138:12,20 139:18 140:14 141:5 142:18 152:18,25 165:15 180:24 181:4, 9,16,23 182:8,16 200:4,7 201:22 202:13,23 203:3,15 204:10 210:7 213:9, 19 218:21 219:7,12, 24 220:19,22 221:6 222:4,12 223:4,14 242:23 258:21 262:17 263:13,14,20, 24 265:3 269:5,24 270:12,18 271:3,14 272:4,15 273:4 279:12 280:10,20 282:23 287:4 293:19 299:4 301:2,8,16,18 313:3 314:13,23 315:19 316:14 321:6	2020 59:7,9 68:15 70:17 160:7,14,22 165:14 169:17,20 171:19 173:24 175:8 176:10 179:24 183:7, 14 186:12,14 189:13 195:20 196:3,17 200:24 204:20 207:16 221:11,16,21 258:20 265:6,11 307:24 314:21 316:16 323:10 326:4, 12,14 327:5,9 328:16 330:15 334:23 335:7 336:11,20 337:12 338:15,24 341:9 343:2 346:10 359:3 360:17,19 361:6,24 364:4 366:9,10 367:15,20 377:21 378:10,11 379:16,21 382:24 388:4 390:6 391:23 392:5 393:11 2021 8:19 14:8 19:5 37:2,10,19 38:2 70:21 71:3,5,12 121:13,22 122:19,24 163:2,7,8 165:5,9 166:2 173:18 176:24 187:3 198:21 199:7, 12,20 200:14 201:2 203:4,21 210:2,23 212:19 219:11,13,17 226:4 301:24 314:8 315:21 316:7,19 326:9 340:21 341:6 350:6,9 361:25 362:3,7 364:8 365:2 367:15 383:23 395:17 20th 160:5 21 78:3 21-03000-SGI 8:15 21-3004 197:18 215:4 215 106:2 218 6:4 226 5:22 228 8:22 23 178:19	236 5:23 241 110:23 25 260:12 328:16 329:14 25-year 347:7 251 129:16,22 256 5:7 258 5:25 25th 329:19 297 6:10 2nd 132:20 141:5 213:9 315:18 <hr/> 3 <hr/> 3 220:2 30 7:19 16:3 186:16 356:9 302 6:12 307 6:11 309 6:13 30th 176:10,24 331:12 332:3 380:18 31 122:19 197:20,24 198:7,9 199:7,12 200:24 201:2 203:4 301:18,24 307:24 326:4 338:15,24 341:9 346:9,21 390:6 391:13,23 3102 4:7 31st 105:18 109:14 119:21 121:13 122:23 199:20 200:14 202:19 203:9, 21 212:19 216:16 218:21 219:7 221:15, 21 242:18 258:20 263:14 326:8,12,14 334:15 328 6:7 33 5:16 91:20,21 33416 100:10 338 6:8	34 5:18 104:23,24 341 6:9 35 5:20 15:20,22 100:10 151:20,21 352 5:8 35D 101:10,19 36 5:21 102:18 170:18,19 177:18 313:9 317:12 377 5:9 387 5:10 39 5:22 226:23,24 236:17 393 5:11 3:26 224:20,23,24 3:39 224:24 225:2 3:40 224:21 3rd 92:2 98:17 99:25 103:2 132:20,25 135:2 137:6 142:18 200:7 213:9 242:23 262:17 263:13 265:3 315:19 <hr/> 4 <hr/> 40 5:23 236:22,23 237:19 406 343:19 41 5:25 258:16,18 419 103:11 45 6:2 135:12,14,15 45th 8:23 46 6:4 218:16,17 4:30 265:25 4:31 266:5,6 4:40 266:2 4:43 266:6,8 4th 135:2	<hr/> 5 <hr/> 5 268:22 271:15 282:14 5.3 121:3,6 124:17 308:21 311:4 500 3:23 51 4:20 5:52 172:4 174:6 5:53 325:7,8 5:59 325:8,10 <hr/> 6 <hr/> 6 183:7 186:14 217:16,19 314:20 316:16 341:13 6/3/19 5:16 6/30 176:8,16 60-day 380:16 650 4:13 6:27 349:6,7 6:30 349:7,9 6th 172:4 174:6 186:11 189:13 <hr/> 7 <hr/> 7 277:15,16 297:20 305:5 7.4 132:2 311:4 7.8 277:12 70130 4:14 71 238:20 71A 6:13 75 18:2 75201 3:16 75201-6659 3:24 75219 4:8 780 3:9
--	--	--	---	--

7:02 372:14,15

7:03 372:15,17

7:30 395:10,11

8

8/31 6:11

850 100:25 101:2,4,9

9

9 307:18,19,20

90 18:4

91 5:16

94 5:18

99 86:14

9:32 8:20

9th 70:16

A

a.m. 8:20 36:15,16,18 73:5,6,8 342:14 344:14

A1 6:7 328:13

A10 6:12 302:7,8

A11 6:13 309:4,5,6

A2 6:8 338:13

A6 6:9 341:14

A7 6:10 297:20,23

A9 6:11 307:20,21

abilities 265:12

ability 20:17 42:6 124:3 204:15 272:6 327:16 372:5 382:13

absolute 109:2

accelerate 340:10, 14

accelerated 339:4 347:7

acceleration 339:6, 10,15 340:13,17,24

accept 16:17 152:23 188:19

accepted 241:14 277:19

accepting 153:16

accepts 8:6

access 294:24 359:19,21 360:9,14 372:21 373:13

accordance 241:13, 25 242:4 254:10 256:21

account 287:17 328:6,9 359:14 360:6,14,22 367:22 371:9

accountant 21:17 25:20 116:12 370:14

accountants 147:22

accounting 26:2,4, 7,17 28:16 38:24 87:12,14,17 112:10, 11 148:23 149:2,14 150:14,19 188:11 200:17 230:16,18,21 240:19 241:14 257:22,24,25 258:12, 13 280:6 290:13 326:18,21 337:2,7 351:2 354:7,11,22 358:3 371:5 372:3 378:15

accounts 244:9 327:10,12,17,21 329:17 330:10,12,20 331:4 333:7 359:19, 22

accuracy 113:17 114:17 115:2

accurate 88:7,11,17 89:13,23 90:2,6 110:16 112:19 133:5 176:17 204:4 238:4 256:10 257:4 284:24 286:6 330:20,24

accurately 240:9,14

accusations 157:18

acknowledgment

6:12 201:13,25 213:6,17 314:21

acting 23:23 24:2,3,8 28:5,8,12,18,20 29:5, 9,11 30:14,16,24 31:2,3,5 155:6,9,14 156:4,12 158:3,9,11

action 374:20 383:17

actions 9:7 347:25

actively 337:11,12 346:19,25

actual 115:21 311:25 312:12

add 183:23

added 183:24

addition 333:7

additional 171:6

adequately 335:24

adjustment 242:7 263:4

adjustments 36:4 240:21 241:18 243:5 244:19 245:20

administrative 321:17 388:24

admissible 7:17

admitted 276:24

advance 57:21 60:21 61:5,10 62:21 63:5 267:8 355:25

adversary 197:18

advice 172:7 205:7 257:2

advisor 125:8,15 192:25 193:15 205:10 273:23 281:6 282:5 311:25 312:5,6 328:7 331:22,23 391:7

advisor's 337:17

advisors 3:17,18 9:21,22 22:22 27:10 29:10,12 32:18,20,25 33:24 39:2 42:21,22 44:6,7 58:8,14,15,18

125:3 126:10,13,16 127:10 152:14 160:10 167:13 168:19 171:14 172:18 175:7,13 178:11 179:18,21 183:7,18 184:15,19, 22 189:23 190:9,12, 19 191:2 192:25 193:8,19 194:3,21 195:10 196:8,22 205:7,12,23 206:14 208:4,7 210:5 213:22 215:14 235:9 267:24 268:16 279:19 280:2 286:18 308:4 325:15, 21,22 328:7,25 329:3 332:14 333:23 335:15 336:7 337:14 353:20 379:19,24 380:2,10,22 381:2,6, 11,16 389:11 390:11 391:8

advisors' 168:9 179:8,25 180:9 184:3 194:17 218:19 328:9

advisory 32:21 33:24

affect 371:17

affected 265:12 277:20 370:23

affidavit 164:10

affiliate 41:18 42:2,4 44:12,16 47:25 48:9, 22 49:5,6,10 51:17 54:17 57:19 58:3 60:14,21 61:4 62:9, 20 63:3,15,22 64:6, 10,16,24 65:18 78:18 93:21 94:6 100:25 105:8 107:2,13,21 108:3,7 109:10 131:2 171:14 220:6 225:6, 14,21 239:4 254:2 259:24 262:11 263:5 307:24 309:16,24 310:9 312:2,11,14,25 370:10

affiliated 134:6 285:17

affiliates 41:2,5,8,10, 13,14 44:4,11,15,25

45:13 46:3,9 47:18 48:7,13 54:2,11,13, 20,21,25 55:6,11,18 56:2,16,23 61:20 62:2 63:11 65:4 66:8 82:16,20 91:3 100:22 101:16 106:22 107:3 108:14,18 109:8,18 110:7 111:2,6,9,13, 23 112:18,24 113:19 115:4 117:24 118:7 119:4 120:20 121:4 176:9 233:9,23 234:10,16,21 235:4, 22 236:8 238:25 241:7 242:8 243:8 259:19 260:11 262:6 309:19 312:2,13 377:13 379:8 382:7

affirmative 96:15

afield 16:22 376:3

afternoon 344:17

aggregate 131:13 132:7 138:11 217:15, 19

agree 77:5 306:13,22 307:5,10

agreed 16:17 75:20 121:16,20 198:20 199:5,11,19 200:13 209:25 210:6 314:11 374:25 375:7

agreement 17:9 59:24 65:9,16,23 66:2,6 67:3,7,8,12, 16,22 68:4,9,12,17, 24 69:15,19,22 70:2, 7,11,16,20 71:18,24 72:4,7,10,13 75:4,5, 9,14,16,23,24 76:3,6, 7,10,14 77:6 78:15, 21,25 79:8,10,17,18, 24 80:5,6,11,16,20 81:6 82:9,17,22 83:7, 10,14,17,20,23 99:15,24 100:2,6 102:3,6 104:13,17,19 122:5 123:22 124:4 134:12 186:24 187:2, 16 189:2 200:13 210:22 212:17 278:23 279:18,20,24,

25 314:7 316:5,8,9, 13 326:3,13 332:8 351:4 365:22 379:20	amounts 106:21,25 108:14 109:7,18 110:6 111:2,5,8,12, 23 112:18,24 113:18 114:19 115:3 119:3 120:20 121:4,11 125:8 126:6 161:8 168:3 171:12 174:15, 22 175:11 176:9 181:15 199:12 202:7, 22 203:7,13,19 204:11,16,25 205:12 211:11 212:10,18 217:19,21 222:3,11 234:23 235:3 275:13 282:8 283:2 285:10 288:3 311:4 335:12	Apple 281:21 application 165:10 applied 55:16,24 56:6 59:17 60:12 162:5 168:4 294:13 316:14 apply 213:7 314:12, 22 appointed 18:21,24 24:14,19,25 25:8 29:11,15 270:4 323:9,16 appointment 152:24 153:4,16 appointments 227:14 appoints 183:9 appreciated 74:16 approaching 310:23 approval 57:13 62:5, 10 63:12,17,23 144:24 170:14 206:5, 16 271:17,22 272:13, 14 281:7 332:16 351:5 377:17,24 382:11 approve 56:21 57:2, 3,20 61:5,9 231:21 273:6 379:7 approved 57:5 60:20 231:14 271:12 294:21 295:6,18 333:4 382:16,17 approximate 17:22 23:15 27:24 30:19 36:23 38:15 120:15 161:24 216:17 277:7 310:5 approximately 8:20 15:13,20 19:23 109:15,19 110:7 119:23 126:12 169:7 173:14,15 178:19 220:12,24 221:3,7 238:9 277:10,15 278:6 approximates 118:13 121:6	April 152:18,25 200:4 202:13,23 203:3,15 204:10 210:6 213:18 301:16 314:21 323:6 areas 26:5 Argumentative 156:10 arise 288:3 arithmetic 260:10 armchair 153:11 ASC 100:25 101:2,4, 9 ascribing 386:8 Asia 4:24 92:14 118:3 129:16 135:10 177:14 218:14 asks 97:12 171:10 172:6 174:21 aspect 26:18 116:20 asset 107:25 108:6, 24 109:14 118:23 225:16,23 265:9 354:15 367:9 368:4 371:7,16,23 372:6 376:24 387:3 assets 5:23 107:14 108:10,13 109:20 110:8 122:3,8 137:14 190:3 194:2 195:17, 20 196:3,9,17 204:19 211:3 225:8 235:11, 15 237:20,23 239:13, 19 240:15 241:4,18 242:13 250:18 253:16,24 259:18 260:8,11,13 301:9 303:9 307:9 309:2 311:10 317:7 366:14 368:5 370:22 assistant 295:2 298:25 320:23 321:9 assistant's 321:5 assistants 321:18 assisted 326:22 assisting 333:8 associate 268:10 297:25	associates 377:23 association 7:5 8:25 assume 22:15 133:24 297:13 assumed 285:4,11 287:6 assuming 288:22 assure 105:4 assured 257:3 astute 320:12 attach 320:22 321:2 attached 307:23 attaching 171:5 attachment 307:25 attempted 360:23 attempting 374:17 attorney 153:11 172:12 attorneys 3:4,11,17 4:2,10,16 147:21 187:6,11,15 188:3,7, 24,25 attributable 132:3 276:11 283:2 audit 26:11 48:5 52:23 85:24,25 86:9, 23 88:2,6,13,14,16 89:10,11,22 91:11,14 93:4,14 95:6 96:7,10 97:22 98:19 103:25 104:4 106:7,16,17 109:24 110:25 111:20 112:7,24 113:17 114:2,7 115:2,20 116:5 117:2,20 119:19 131:5 132:9,24 135:6 137:5,7,10,12,21 138:18 142:9,11 148:25 149:4 199:23, 25 200:6 218:7 219:4,5,12,15 221:11,14,20 243:12 244:18 263:24 264:8 audited 6:4 41:7 47:25 84:16,23 85:3, 19 90:2 93:24 95:14
---	--	---	---	--

98:6 102:7,10 104:21 107:22 113:7 114:18 133:22 138:3,4,9 143:8 186:25 196:21 200:9,12 201:7 211:6 217:24 218:4,12,24 241:24 242:2,3,15,16 261:20	338:22,25 339:3,5,6 343:18 347:5,8,25 348:6,13,14,17 372:24 378:9 382:4 385:10,15	229:3,8,16 230:5 243:7 251:14 253:22 370:22 372:6	begins 12:15 170:23 197:25 341:17	175:3,8,15 176:22 178:7,13,17,23 179:8,12,15,19,25 180:8,23 182:6,15 184:4,8 185:14 189:7,14,19 190:4, 14,18,21 191:2,8,13, 16,20 192:3,8 193:3, 18 194:12 204:18,23 205:6,22 206:12,13 209:16,19,21,24 210:6,20,22 233:7, 13,16 281:7 323:8,16 348:3 385:13
auditing 264:2	B	ballpark 196:15 277:17 278:11	behalf 58:11 122:22 139:18 180:22 181:2, 7,13 182:17 201:13, 15 210:5 211:9 212:8 213:8 270:21 271:5 273:4 289:18,23 327:17 336:21 350:19 362:9 377:12, 23 379:8 382:6,9 383:24 384:18,22 385:7,11,12	board's 174:13 175:23 176:18 179:3 194:17 195:10 210:11
auditor 84:21 97:12 113:11 136:6	back 20:14 36:17 40:22 50:2 61:24 71:11 73:2,7 75:17 89:17 91:10 92:9 93:11 95:18,20 125:19 140:14 141:12 151:2 160:6 174:20 183:8 185:19 192:23 202:3 205:19 207:2,5 209:6,13 215:20 224:20,25 226:18 243:22 263:23 265:5,15 266:7 273:21 280:3,5 282:13 283:22 285:16,21 286:20,24 292:23 293:19 299:4 301:21 302:23 305:16,20 306:3 313:3 324:6,12 325:9 326:15 332:13 333:9 343:6,16 344:18 347:3,4 348:25 349:8,10 350:2 354:16 365:20 372:16 382:23 393:12	bank 142:12 261:23 306:5 327:10,12,17 328:6,9 360:5,14	believed 143:22 161:7,17 175:22 246:22 250:9 386:9	boards 33:8 160:8 171:19 181:2,8,14, 19,21 182:2,11
auditors 46:8 47:17 48:7,10 52:11,20 53:4,11,13 84:10 86:10 88:9 91:12 113:8 136:16 137:3 149:13 211:16 212:15 264:16	based 71:16 78:25 101:13 108:21,23 111:15 146:8,23 204:22 274:4 278:4 315:4 337:22	bankruptcy 8:13 21:7 45:24 187:15 188:25 219:23 236:24 237:2,14,24 240:8 244:6,21 245:17 247:9,17,23 248:14,24 254:12 263:18,19 264:3,15 311:11 317:11 366:4 374:15 376:7	belief 98:17 346:15	bona 369:25
audits 149:12 246:11	bases 228:13	base 109:14	believing 144:17	book 140:15
authority 63:9,21 270:19 271:5	basically 122:19 145:15 152:10 199:14,23 200:23 252:9 254:16,19 327:20 348:4	based 71:16 78:25 101:13 108:21,23 111:15 146:8,23 204:22 274:4 278:4 315:4 337:22	benefit 17:19 304:19	bookkeeping 358:6
authorized 57:8 139:4 143:13,22 144:7,18 150:4 152:11 158:4,13,18 159:4,15,23 160:15, 24 181:3 320:16 363:2 382:6,9 384:7, 10	basis 16:18 19:4 47:10 84:18 110:3, 10,17,18 137:16 151:14 154:6 170:15 190:13 226:11 227:5, 20,25 228:13,16 241:17 266:22 288:12 358:7	base 109:14	bigger 89:5	books 225:8,15,23 235:16 237:15 240:11,14 257:21 258:5 286:23 371:8
availability 121:12	backed 50:22 123:5	bases 228:13	bill 117:9 355:3,8 358:13	born 284:10
Avenue 3:9 4:7,20	background 13:22 16:13	basically 122:19 145:15 152:10 199:14,23 200:23 252:9 254:16,19 327:20 348:4	bill-paying 358:14	borrowed 127:15,24 128:5,23 129:2,5
aware 12:14 21:6 32:7 43:22 45:12 48:8,11 49:4,8 50:20, 25 51:5,8,13,18 53:24 57:6 61:7,19, 23 65:3,5 66:21 78:5, 15,22 83:15 85:10 93:8 102:5,14,16,22 103:5,16 107:20,23, 24 108:6 133:15,19 148:5 161:2,6,22,23 162:2,3,8 167:18,19, 24,25 168:7 181:6,7, 12,13,17,24,25 182:4,9,10,13,14,18 198:16 199:9,13,17 202:11,17,21 213:5, 13,15 220:17 223:3 226:3,6,7 261:3,5,7 263:12 267:7 295:23	backing 189:9,15 190:10,12,19 191:3 193:20 194:20 205:8, 14,24 206:14,23 208:5 321:15	basis 16:18 19:4 47:10 84:18 110:3, 10,17,18 137:16 151:14 154:6 170:15 190:13 226:11 227:5, 20,25 228:13,16 241:17 266:22 288:12 358:7	billions 253:24	borrowers 44:15,19
	bad 134:9	batch 330:3	billion 109:15 110:14 253:21	bottom 92:16 106:5 129:25 143:3 170:21 221:24 224:4 329:5 330:7
	badly 81:18	Bates 129:16,21 137:25 177:16	bills 326:23 355:14 356:2,13	box 294:20
	Baker 3:14 9:9	basis 16:18 19:4 47:10 84:18 110:3, 10,17,18 137:16 151:14 154:6 170:15 190:13 226:11 227:5, 20,25 228:13,16 241:17 266:22 288:12 358:7	binder 91:23 216:10	Boyce 21:5
	balance 106:19 107:14,22,25 108:11 109:6 110:4,5 111:11 112:4 120:23 175:2, 8,14 179:17 196:25 220:2 222:21 228:22	bear 17:5	binders 216:5	Brad 249:21
		began 20:8,13,17,23 266:21	bit 16:22 96:4 117:22 152:17 171:2,25 201:12 222:25 313:11 384:25	break 36:6 72:17,20 73:10 74:4,14 139:25 150:22 151:5 224:19 265:24 266:2 324:22, 25 327:3
		begin 11:22 12:2 266:18	BK 187:6	briefly 383:22
		beginning 202:5 249:9	blah 248:18	
			Blank 170:24	
			blend 250:5	
			blessing 319:21	
			block 152:21 320:22 321:3	
			board 33:5,12 34:4 166:23 168:18,21,23 169:10,12,14,20 170:12,13 171:7	

bring 73:16 154:20	capable 86:12 88:20	caused 263:3,14 277:3,19 280:12 359:8,24	229:11 240:6 248:17 261:24,25 262:2 264:3 265:10 343:20 371:22	308:24 372:10
bringing 249:21	capacity 11:3 19:25 21:3 24:17 26:22 65:10 97:15 143:25 174:3 232:4 258:25 270:25 285:24 295:18	causing 362:21	changed 20:6 28:11 189:10 194:13 206:24 207:6,7,9 208:2,3 263:18 264:17 323:2	close-end 275:6
broke 221:12	Capital 3:4,18 8:11 9:6,22 10:22 11:7 15:16,23 18:7 22:21 30:2 41:18 42:10,18, 21 43:11,16 44:6 58:15,17,20 70:21 109:23 110:9 125:3 127:12 133:10 152:13 172:14 215:14,17 271:3 279:18,19 280:2,3 308:4 325:22,24 330:16 354:19 359:16,18 360:7,8,13	CCO 192:25 193:8,14	characterized 247:12	closed 281:3
broker-dealer 332:6	capture 107:10 130:15 203:11	cease 173:15	chat 81:25 92:12 105:2,5 135:17 177:7,18	closed-end 281:10, 15 282:7
brought 73:17 248:13 374:9	captured 131:3	ceased 71:6 173:12	check 86:8 306:4	co-invest 127:13,16
build 107:7 108:22 260:5 311:17	career 286:21	cell 393:2,5,8,9	chicken 298:13	co-obligor 305:22
bulk 89:9	careers 89:6	CEO 14:16	chief 14:12 26:24 27:5 120:8 184:22,24 258:25 270:9,13 271:2 302:19	code 101:21
burdening 81:12	carefully 40:14,18 47:9 114:14 144:14 223:12	certainty 371:6	Chisum 321:7	collect 54:3
business 226:10 229:22 332:10,11	carried 107:14,18,21 109:6,11 233:5 243:6	certificate 5:20 22:3 152:2,5,10,13 159:19 183:11 270:4	chose 113:25	collectability 253:18
C	carrying 118:13,25 120:2,4,12,14 262:8 263:7,16 265:2	certificates 21:21 154:20	circumstances 71:15 231:6 240:6 241:10 261:23,24 262:2 265:9 274:13	collectively 33:2 54:12
calculate 275:11 276:22	case 7:21 8:14 208:15 248:15 301:14 339:25	certification 22:3	Civil 7:20	colloquially 366:5
calculated 335:11	cash 57:3,4 121:12 335:17,18,22,23 336:7 337:13,14,16, 17 360:5 361:12,14	certifications 22:13	claim 167:9,13,25 374:9 375:8,11 385:17,22,25 386:2 388:24	combined 233:18
calculation 278:12	categorically 392:10	certified 7:5 21:17	claims 208:23	comfort 159:22 193:25
calculations 276:19	categorize 257:10	cetera 164:10	clarify 354:17	comfortable 90:9
calculator 110:12	categorizing 316:18	CF- 25:2	clear 40:15,16 54:22 55:5 75:16 81:2 156:2 188:21 214:17 238:17 302:6	command 297:25
calendar 337:7 378:16,21 379:5	category 107:24 109:6	CFO 14:14 18:10,17, 21,24 19:3,14,25 21:3 39:10,15,19,21, 23 40:3,4,9,12,25 42:5 43:10,23 44:25 46:7 47:16,24 49:17 50:10 51:10,15,20,25 53:9 55:16 60:23 61:21 62:4,8 84:20 85:12 86:3,19,24 88:10,15 90:15 94:4, 23 95:7,15 100:17 107:11 111:16 114:5 133:7,10,16 176:14 202:11 203:25 225:17,20 226:8 227:6 229:23 230:14, 18 240:7,14 243:4 247:7,23 248:24 255:7 269:2 285:24 287:14 288:7 295:19 339:24	client 74:5,10 75:19 269:9,13	commenced 53:25 54:11 181:22
call 46:14 55:2 68:6 70:3 154:8 167:4 191:14,15,24 192:2 290:19,25 350:15 364:21 393:12		chain 341:17 342:7 350:14	clients 195:8 209:2	commencing 203:20
called 16:10 22:21 27:10 29:25 31:8 32:4 81:9 115:3 130:3 227:2,19 228:21 273:18 278:22,24 315:20 342:8,24 343:2,16 351:10 362:8		challenges 12:21	Cliff 276:2	comment 252:23 367:22
calling 344:18		change 28:7,11,17 93:7 187:7,16 189:2	clock 46:25	common 299:4,5
calls 45:17 46:10 55:21 107:5 126:4 268:6 324:2,9 344:22			CLOS 253:19	communicate 64:3
camera 36:2			close 229:10,19,21 230:2,23 232:8,20 233:3 298:2,12	communicated 114:9 211:15,20 254:21 292:17 319:19 368:8
Canty 4:24 105:2,23 129:18,23 135:12,16 177:10,21,25 218:15				communicating 365:13 366:3
				communication 87:6 207:23 350:8
				communications 66:19 71:13,14 116:16 322:7 367:14
				comp 78:10
				companies 42:7 285:17
				company 27:9 29:25 31:7 247:8 273:18, 273:18

20,21	conclude 108:17 310:9	consult 94:12,17 351:21	conversations 66:16 74:21 113:22 115:9 124:11 206:11 233:25 289:4 368:13 380:6 393:10 394:3	187:3,4 201:4,9 204:20 205:24 206:6 211:25 214:21,24 218:4 223:7 242:18, 23 243:2 256:2,5,10 257:5,19 258:2,6,8, 14 259:2,6,7 262:8, 17 263:7,10 264:20 269:25 270:14 290:8 301:9 307:12 310:18 311:3 316:10,19,22 332:18,19 346:2 359:17 371:21 375:2 382:3 383:8 384:7 388:18,21 393:22
compared 12:21	concluded 395:11	consultation 318:12	conversion 125:12, 14 131:23	correction 384:5
comparing 118:24	conclusion 42:20 43:9 44:18 45:5,9,17 46:11 47:21 48:4,17 49:2,14 55:21 107:5 126:4 142:7 143:16 153:13 154:9 157:8 212:25 263:5	consulted 274:9	convert 281:9 282:6	correctly 138:7 175:20 289:17 305:14 375:18
compelled 81:8 371:22	conduct 85:24 169:10	contend 65:6 168:4	convey 208:6 389:20	cost 279:17 325:23 379:20
compensation 125:14 281:3 318:14 366:24 367:19,24 386:11	conducted 86:14	contends 168:3	conveyed 343:15,25 344:4	counsel 9:2 66:17 73:13,14 74:15,21 140:10 150:2 164:7, 16,20 187:22,23 254:18 322:7,9,12, 19,22 351:18,21
competent 88:20	conference 8:17 323:24 343:23,24 344:11,13	context 41:21,22 58:13 124:18 136:21 168:20 170:4,9 189:18 367:12 386:23	conveys 193:15	counsel's 151:16
complaint 5:15 140:4 208:17,22	conferred 98:8	contexts 41:15	copied 183:3	Counselors 7:4
complaints 322:2,4, 8,20	confers 143:20	continue 209:4	copies 13:11,16 142:12 149:8 298:7	couple 17:5 100:9 314:6 351:12 352:12 384:15 386:6 393:17
complete 112:19 208:16 221:10,13,18, 19,20	confirm 96:14 98:16 108:23 141:13 143:4 214:3 270:6 319:3,20	continuing 203:20	copious 324:16	court 8:13,24 10:10 12:10 209:5 213:23 215:13 226:16 237:2, 24 244:6 245:22 254:16 256:21 268:8, 18 301:20 311:11 313:3 343:3 376:8
completed 132:24 178:8 200:7 219:7, 10,13,16	confirmation 103:21	contract 278:15,22	copy 92:13 148:24 197:23 200:18	courtroom 7:18 156:19 157:23
completely 13:4,7 205:5	confirming 98:23	contracted 330:18	corner 198:6	cover 105:16 294:12, 24
completeness 97:22 98:5	confused 78:11 317:13	contracts 15:9,11 249:22 288:17 325:12,14,17 326:6	corporate 41:2,5 54:25 87:11,14,16 112:10,11 116:12 148:23 149:2,14 150:14,19 172:20 188:11 200:17 230:16,17,21 257:22, 24,25 258:11,13 337:7 370:14 378:15, 21	cover-to-cover 208:22
complex 253:19	connection 16:11, 16,19 48:15,23 50:15 93:13,14 95:5 96:9 125:25 149:3 160:11 175:9 179:19 184:5 199:22 367:5 374:8	controlled 15:6 16:8 17:24 42:8,16,25 43:3,14 101:16	correct 11:16 18:10 19:8 22:16 24:7 29:3, 8 32:4,22 33:5 39:4, 12 41:3 43:24 45:2 50:24 55:19 59:18 69:24 74:12 79:24 84:11,18 91:23,24 93:15 95:7 100:4 109:17 110:19 112:8 115:4 117:17 120:21 132:8,24 133:7,11 137:3,8,22 142:5 143:9,14 149:4 150:9,16 155:7 156:13 160:17 161:9, 20,25 165:16,19,23 166:15 167:16 168:11 175:24 179:9 185:23 186:5,6	covered 67:4 189:7 191:13
compliance 148:3,4 184:22,24 193:17 280:8 294:18 295:21 296:4	consequences 357:4	controller 291:13		COVID 207:16,17 219:19 299:6 321:2
complied 373:3	consideration 306:18	controls 43:5,6 112:16		
component 119:17 120:22	considered 274:9	conversation 58:23 59:5 73:18 74:2 78:9 113:16 114:16 124:8 145:7,14,21 148:17, 20 164:23 166:2,9, 11,19,23 187:14 190:23 194:8 207:13 233:21 234:25 235:13,18 246:14,18 252:10,12 255:14 282:25 283:4 296:3,4 318:9 319:16 342:4, 20 348:15 350:8 363:5 365:3 367:3,4 381:8 383:11 386:18, 20 389:22 390:24 391:17 392:24 393:2		
compose 348:22	consisted 59:21			
conceived 232:17	consistent 394:17			
concept 52:24 201:20 390:10	consolidated 5:18 6:2 105:17 110:2,5,9, 17 113:13 135:20 137:16 218:19 253:21			
concern 105:8 122:13	constitute 110:7			
concerned 35:25 112:23 235:20,24 241:22 370:2	constituted 109:19			
concerns 112:15 113:3 114:6,25 117:23 236:2				

323:2,3,5 COVID-19 7:7 8:18 CPA 22:13 crafted 178:6 crash 265:11 craziest 157:5 crazy 264:2 create 257:18 created 199:10 creditworthiness 303:19 Crescent 294:10 CRO 254:13,14 256:25 257:7 cross 305:17,21 crossing 295:24 culmination 145:8 250:4 274:20 cure 345:4 cured 363:14,19 curing 365:16 current 86:13 158:9 curse 394:15 cursed 394:14	61:12 62:11 63:13,24 64:19 65:12 66:14,24 67:17 69:5 72:15 73:12,21,24 74:8,12, 17 75:6,10,13 77:9, 14,21 79:4,14,20 80:12 82:5,11,24 83:25 85:15 86:2 91:4,8,22 92:11 94:3 96:11,20 99:17 104:25 107:15 108:5 110:11 111:24 112:20 113:20 114:20 115:5 117:6, 18 119:12 120:16 122:10,16 124:6,23 127:19 132:16 134:8 135:8,18 143:10 144:8 146:20 149:5 150:10,17 151:13 153:18 154:14 155:11,18,20,23 156:10,16 157:2,6, 11,15,24 158:15 159:17 160:3,12,18 163:24 167:5 168:8 177:15,20 178:20 180:3,11 181:5,11 183:15 184:6,20 185:2,18,24 193:21 194:5 195:21 196:13, 18 200:20 203:23 205:3,15,25 206:21 208:10 210:24 211:4, 13 212:22 213:11 216:2,9 220:10,15 222:13 225:10,24 228:9 229:24 231:18 234:6 235:23 236:10, 18 239:3,14,22 240:16 242:24 246:19,25 247:14 250:11,22 251:3,12 253:12 254:6 255:12 257:6,20 260:14 263:8 265:4 266:3 269:10 285:23 286:7 295:11 298:6 299:15 302:25 305:10 307:2 312:18 317:23 333:20 336:14 338:5 339:20 341:2 347:21 348:11 349:11,17,18 350:3 352:18 375:22 376:5 379:10 394:10	data 311:24 date 18:13,18,20 21:10 56:18 70:12 84:11 98:18 103:14 104:4 106:4 131:11 133:2,12 136:10 186:15 226:7 235:10, 14 239:17 241:20 262:15 263:20 310:15 314:22 315:6, 7 323:8 326:8 329:18 332:2 356:24 369:13 372:6 386:5 dated 92:2 106:10 132:20 142:18 152:17 200:3 203:2 213:18 216:16 220:14 228:3,23 258:20 262:23 dates 30:17 178:8 321:14 326:7 355:25 357:11 Dave 87:20 172:6 230:19 292:3,4,11 David 124:9 275:23 389:9 Davor 3:20 9:19 178:10 266:15,17 304:8 336:15 387:14, 16 day 106:10,13,16 134:20 187:8 226:4 321:23 329:21,23 332:4,10,11 342:16 343:24 350:12 353:5 395:17 days 71:12 356:9 DDP 349:23,24 de-accelerate 344:24 de-accelerated 345:18 deadlines 86:9 379:2 deal 74:25 219:18 224:14 286:11 deals 373:19 Deb 151:7 349:10,18	Deborah 4:4,18 9:8, 12 10:2,3 349:18 Debra 3:12 Debs 349:20 debt 333:9 debtor 240:8 245:15, 25 255:17 270:14,21 271:2,6 278:16,17 279:6 280:21 310:18 325:13,14 326:14,22 327:15,20 331:3 333:7,15 335:2,8 336:22,25 350:22 364:18 372:20 373:3, 15,16,18,25 374:9, 15,16 376:13 380:9 383:14 388:10,12 debtor's 233:7 239:12,19 240:15 debtors 374:21 debtors' 337:24 debts 302:23 decade 95:19 231:22 decades 95:21 December 59:9,12 105:18 109:14 119:21 202:19 203:8 218:21 219:7 221:15, 21 242:17 258:21 263:14 326:4,11,12, 14 327:4,9 330:15 332:11 334:15 338:15,24 341:9 343:2 346:9,21 359:3 360:17,19 361:6,24 364:4 382:23 388:4 390:6,16,17,24 391:13,23 392:4 393:11 December-ish 390:16 decide 254:25 decided 245:5 318:13 380:22 deciding 56:13,17 decision 121:24 122:2,21,22 245:2,8 340:9 382:20,21	decisionmaking 254:14 declared 182:7,12 deduce 309:23,24 310:6 deemed 53:2 94:19 109:9,10 113:11 131:6 244:16 245:24 246:6,16,24 default 182:7,12 341:6,7,10 345:5 346:9,20 347:6 363:9,14 defaults 365:17 defendant's 214:18 defendants 81:14 defended 11:14 deferral 200:23 201:4,7,21 deferred 203:3 366:23 define 32:9 33:21 101:6 defined 33:13 45:13 51:17 53:13 54:2 99:15 173:2 defining 44:16 69:8 109:21 definition 42:24 43:2 53:16 54:18 69:15 75:20 77:6 100:25 101:9,13 104:6 degree 245:20 degrees 22:7 Deutsch-perez 4:4 5:8,11 9:12,13 10:2 17:8,13 29:20 42:12 46:12 50:5 60:16,24 64:17 65:19 66:10 67:9,24 69:6,10,13 76:15,17,21,24 78:19 79:25 81:16,20,22,24 97:4 107:16 115:6 117:7 119:13 120:17 144:25 146:12 147:4, 11 148:12 149:21 153:19,25 154:7
--	---	---	--	--

D

D.C. 162:20 164:6
daily 219:20
Dallas 3:16,24 4:8 8:14 9:20
damages 385:17
Dandeneau 3:12 7:23 9:8 13:10 14:25 16:9 17:7,18 20:4,20 22:14 25:15 31:16, 20,24 33:9 34:20 36:8,12 40:10 41:4, 12,24 42:11 43:17 46:18 47:3,7,12 50:7 52:8 53:18 54:8 55:10 56:11,25 58:25 59:19,25 60:7,15

159:25 160:19 177:6, 17 178:3 180:4,12 191:4,22 194:6,22 195:22 196:4,11 202:24 205:16 206:7 208:11 209:8 212:12, 20 214:9,13,16,22 215:5,11 216:11 220:25 227:21 231:8 232:9 238:10 239:20 242:25 247:15 248:2, 8 249:4,17 251:10 252:6,9,20,25 254:7 255:10,22 256:17 262:18 301:19 324:24 336:15 348:9, 23 349:21,24 352:6, 11,20 353:2,17,23 375:22 376:4,9 377:3 381:13 384:12 386:13 387:10,14 393:17,20	depends 41:20 57:15 279:2 depo 260:16 deposed 11:9,12 deposition 7:11 8:10,16 11:2,15,18 12:7,15,22 16:15,23 33:23 72:21,23 73:10,15,20 74:6 76:8 77:12 81:3 123:17 151:6,9 215:6 227:15 266:21 267:4, 13 365:20 373:2 375:25 376:19 388:23 395:8,9,11 depositions 11:19 12:19 derived 16:6 17:23 describe 56:4 84:3 111:21 326:15 353:7 358:3 describing 125:17 126:2 description 108:21, 24 desk 293:9,10 295:25 detail 107:7 120:25 153:8 159:20 222:22 229:14 278:11 300:6 311:18 351:19 369:20 detailed 122:20 132:12 179:23 224:9 230:7 260:5 276:18 370:16 389:8 detailing 294:14 details 77:24 78:7,12 80:8 84:7 104:16 131:25 286:3,22 299:12 300:8 342:12 343:7 deter 376:18 determination 41:25 42:4 261:18,19 determine 53:19 82:19 83:6 determined 261:16	274:7 276:7 detrimental 275:11 development 347:13,18 deviate 264:25 dictate 90:10 differ 263:15 differentiate 268:14 differently 96:5 difficult 145:12 205:19 207:18 222:25 diligence 85:5,8,13 169:11 direct 113:22 253:6 304:19 322:10 directed 57:17 direction 237:6 254:25 258:2 393:22 directive 383:7 directly 15:5 16:7 17:23 19:8 42:7,15 43:14 88:2 177:11 219:2 354:9 director 23:6 32:15 39:25 directors 15:22 72:7 disagree 318:5,16, 21 319:2 disclosable 131:7 disclose 46:7 47:17 52:11 53:10 88:13 91:12 94:6 99:14,20, 23 103:2 111:21 112:3 113:8 179:12 210:12,15 242:21 disclosed 48:7,9 52:19 53:4 93:24 94:18 102:3,7,13,18 103:8,10 113:12 117:13 130:10 133:21 134:3 138:8 190:25 212:4 disclosure 100:12 134:12,16 185:15	191:20 211:21,23 262:11 disclosures 91:2 94:16 discovery 81:4 196:21 discuss 99:3 124:2 148:18 201:18,20 322:14 342:7 343:22 345:7 discussed 26:18 73:23 74:11 80:14 107:9 114:25 192:12 193:23 227:12 234:4 272:20,23 275:3,4 294:5 300:11,13 371:15 383:22 390:9 discussing 117:25 148:22 180:8 191:6 217:18 234:9,15 300:17 319:7 341:6, 8,22 346:4 388:13,15 391:6 discussion 164:4,9, 12,17 180:19 191:9 217:21 246:4 249:24 251:20 282:18,21 290:6 319:13 342:15 387:22 388:8 392:11, 21 395:3 discussions 58:20 233:6,15 249:11 250:4 251:13,19 253:17,20,25 263:25 264:14 274:5 275:17 280:18 367:19 387:4 dislocation 371:16 displeased 362:15 dispute 61:7,10,13, 16 disputes 16:16 distancing 7:9 distinction 23:25 52:3 164:19 distinctions 33:17 distinctly 392:4 District 8:13	diversion 208:16 divided 110:14 239:24 Division 8:14 docket 215:4 255:18 document 13:3,6 91:19 92:5 96:3 103:18 104:23 105:5, 10,16 136:11 139:22 140:8,12 141:4,10,16 144:3 147:16 151:22 153:6,15,22,23,24 154:5,11,18,24 155:3 156:24 159:21 197:13,14,16,17,25 198:12,15,17,23 199:3,4,10,14,17,25 200:3,18,22 201:3,6, 15,18 202:4 203:2 209:14,16,22 210:12, 15 211:24 212:4 213:21 214:3,6,12, 15,17,20,24 215:7,13 216:7 226:10,25 227:8,19 228:6 236:16,19 237:18 239:17 244:5 256:5,9 293:21,22 301:16 302:12 303:7 305:12, 21 320:14,16 338:14 documents 12:24 13:12,14,16,19 25:5 123:15,17 126:19 140:10 143:24 147:20,25 149:12 153:8 159:15 197:2 227:13 235:19 236:25 266:19 267:3, 7,9,14,18 291:9 294:2,4,6,8,11,14,17 296:21,22 322:11 364:18 377:10 dollar 253:21 288:12 dollars 253:24 260:19 Don- 68:19 Dondero 4:2 9:14 15:6 16:8 17:24 19:8, 12,25 20:9,13,18,24 21:4 42:9,17 43:15, 24 44:3,5 50:11,14,
---	--	---	--	--

21,25 51:6,12 54:15, 17 55:2,7,11,19 56:2, 16,24 57:20,24 58:9 59:6 60:11,14,20 61:4,5,8,21 62:3,9,20 63:4,7,11 64:4,7,9, 10,13,16,21 65:3,5,9, 10,17,18 66:6,7,8 67:7,23 68:19,25 71:13 75:25 78:16,18 80:15 82:16,21,23 91:3 92:5 94:20 98:8 99:4,6,10,13,20,23 101:17 107:3,13,21 108:3,19 117:25 118:7 123:3 124:2 145:5,7,14 148:9,14 189:9,16 190:10,13, 17,25 191:3,9 193:20 194:19 201:14,21 205:9,14,24 206:6, 11,15,24 208:5,8 225:7,14,21 232:18 233:9,24 234:11,16, 22 235:5,7,9,22 236:9 239:2,5 241:8 242:8 243:8 262:6 263:6 271:25 273:2,5 275:25 280:19 282:16,22,25 283:14 284:4,18 285:3 287:5 288:24 289:4 290:6 300:11,24 301:16 303:16 317:5 318:3, 9,11,16 319:4,8,20 320:3 335:17,23 336:6 341:7,9 342:15 343:15,22 344:2,12, 22 350:6,11 362:10 363:6,19 365:3 366:2,20 368:11,22 381:9,10 382:12,18, 22 383:8 384:6,10 386:7,17,20 387:23 388:9,14 389:2,21 390:4,25 392:4 394:6	15 draft 145:25 146:4 147:10,20 149:17 176:4 182:24 213:17 290:7,12,16 291:4,9 294:17 305:11,14 319:14 drafted 145:23 146:10 147:2,25 290:24 305:13 319:18 drafting 115:20 116:5 146:7 213:12, 13 drafts 230:22 322:3,8 dramatically 264:17 Draper 4:12 9:17 driver's 21:25 dropped 294:8,11,14 295:4 DSI 72:3 166:12 237:9,12 245:9,21 247:4 249:10 250:8 251:7 252:10 253:10 254:5,11,16,19,22 255:8,14,25 257:15, 18 259:12 309:21 312:7,11,21,23 313:5 348:3 DSI's 256:6 Dubel 233:21 due 7:7 8:18 50:3 55:17 56:18 58:2 59:15 63:10 106:21, 25 108:14 109:7,18 110:6 111:2,5,9,12, 23 112:18,24 113:19 114:19 115:3 119:3, 10,22 120:20 121:4 161:9 162:6 163:22 165:11 167:11 168:5 171:12 174:15 175:12 176:9 190:6 194:4 203:19 204:12, 16 205:2,13 208:8 211:12 212:10,11 220:23 223:6 234:23 240:10 259:19 260:11 262:7 266:24 271:21 274:14 275:7	335:12 337:3,25 338:24 347:8 355:25 356:22,24 357:11 359:2 360:16,17 361:24 364:3 377:12, 23 379:8 381:23 382:10 383:19 390:10 391:24 Dugaboy 4:10 9:18 42:23 43:6 65:11 100:18 duly 10:12 dump 267:3 Dustin 183:2,23 184:7 Dustin's 183:10 duties 25:17,19,22, 25 28:10 30:25 31:4 38:20 219:20 292:4	<hr/> E <hr/> e.g 171:13 earlier 84:5 86:18 93:12 100:3,5 119:3 130:9 131:18 134:11 136:2 148:21 155:5 162:14 179:7,16 183:12 195:24 206:18 211:15 217:14 218:8 222:19 243:10 259:10 261:21 263:21 269:24 282:24 283:6 289:4,15,20 290:12 302:11 309:11,20 312:20 316:10,13 318:8 325:12 334:6, 14,20 337:18 351:2 357:8 362:25 368:24 370:8,18 371:15 378:5,20 379:4 380:12 earliest 314:8 316:6 early 19:5 173:17 231:22 254:20 323:6 340:21 341:5 344:17 365:20 388:4 390:17 earth 251:23	easier 305:5 373:13 East 8:23 easy 265:15 educate 204:9 educated 120:10 education 21:23 22:7 effect 282:16 294:25 344:23 345:4,17 346:11 351:13 363:8 effective 152:18,24 effectively 329:25 effectuate 57:8,12 63:22 360:15 382:9 effort 83:5 376:12,17 efforts 188:16 eight-figure 389:18 elaborate 26:12 281:4 electronic 299:2 320:15 electronically 298:21 299:23 320:14,17,23 element 365:23 Ellington 14:20,22 email 5:21 6:11 68:6 70:3 170:23 171:3,22 172:3 174:5 182:20 183:3,22 185:25 187:20 194:10 198:18 206:9,23 207:2,4,5,25 290:19, 25 291:4 292:16 293:14,22 294:2 307:23 313:11 316:22 320:24 321:3 329:6 330:7,13 331:11 332:3 341:17 342:3,7,13,23 350:14 387:11 392:22 emails 6:7,8,9 227:13 236:13 299:25 300:7,9 328:15 379:12	Emanuel 4:19 10:4 employed 14:2,6 23:3 27:15 30:7 32:10 34:7 89:21 240:25 322:9 330:14 employee 24:4 28:20,22 51:22 52:6, 17 70:24 71:7 72:12 115:22 172:17 184:21 325:19 388:12,16 employees 15:15, 19,23 39:12,19 40:6, 8,12 51:24 52:14,25 57:8,17 86:13 93:22 167:2 237:12 327:15 331:2 333:7,16 334:25 335:8 337:24 346:25 350:22 354:6 369:12 381:22 382:2, 5,8 employment 71:19 165:2,3 166:4 167:3 285:25 enabled 360:22 encompass 379:13 encourage 13:18 17:12 end 46:19,20 86:17 103:12,13 104:5 109:20 118:10 131:4 145:13 148:13 187:8 203:7 214:12 220:19, 22 221:6 222:12 223:4,14,17 224:13 242:23 262:15 265:3 293:3 326:11 329:18 348:16 352:7 367:23 379:16 380:9 381:23 382:10 383:20 ending 93:14 105:18 135:21 218:21 219:7, 16 221:15,21 242:17 258:21 ends 395:7,8 enforced 231:12 English 284:11 ensure 98:4 330:19 331:3 333:16 346:12
---	---	--	--	---	---

<p>348:4</p> <p>ensuring 327:20</p> <p>enter 122:21</p> <p>entered 67:7 68:25 104:14,19 122:6 124:5</p> <p>entire 19:7 192:13 253:19 264:4</p> <p>entirety 130:12,15</p> <p>entities 16:7 17:23 43:13 44:3 54:21,25 55:4 101:8,15 189:8 278:2 289:19 330:13 361:13 394:4</p> <p>entities' 265:12</p> <p>entitled 41:8 82:7 110:25 157:16</p> <p>entity 15:5 22:20,25 27:18 31:11,23 32:3, 6,11 42:14 109:24 137:13 272:3 289:23 302:22 307:8</p> <p>entries 240:19</p> <p>entry 131:10 308:3, 14 311:9 332:23</p> <p>environment 90:3,5, 9,14,20 113:6 137:18,20</p> <p>environments 207:21</p> <p>equal 49:11 50:23 262:7</p> <p>equaled 263:7</p> <p>equals 119:6,9</p> <p>equity 273:18 281:25 282:3</p> <p>erroneously 197:22</p> <p>error 125:6,9 131:17, 24 132:3 145:8 165:9 213:12,14 214:5 273:11,14 275:14 276:8,25 277:5 278:5,15 280:12,22 283:3 289:6 318:15 385:9,14,19,23</p>	<p>errors 163:21 167:14 373:10</p> <p>Esq 3:6,7,12,13,20, 21 4:4,5,11,18</p> <p>established 94:2 285:14,20 300:25 301:7 310:16</p> <p>estate 31:12,17 235:11,15</p> <p>estimate 20:12 372:4 389:3</p> <p>et al 5:15</p> <p>evaluate 170:12,14</p> <p>evaluated 244:10</p> <p>evening 353:3</p> <p>event 131:2 134:22 138:9 143:9</p> <p>events 103:13 125:16,25 130:4,10, 21 133:8 138:5 242:22 262:14 263:4 370:24 371:7,9,13</p> <p>exact 15:24 17:25 18:13,18,19,22 20:5 30:17 131:20 156:21 274:13 277:17 278:10</p> <p>EXAMINATION 5:6, 7,8,9,10,11 10:14 266:13 352:25 377:5 387:19 393:19</p> <p>examined 298:19</p> <p>exceed 121:12 190:2 195:19 196:3</p> <p>exceeded 93:25 194:2 196:9,17 204:19 211:3 301:9 303:9 307:9</p> <p>Excel 368:19</p> <p>exceptions 231:2</p> <p>excerpts 238:16</p> <p>excess 94:6 121:12 389:13,14</p> <p>exchange 45:15 212:17 281:17,23</p>	<p>exchanged 45:21</p> <p>exchanges 281:17</p> <p>excuse 14:25 35:23 201:2 249:18 280:9 323:13 395:8</p> <p>execute 48:14,22</p> <p>executed 49:21 142:10 161:12 221:6 274:2 293:14 303:7</p> <p>executing 317:16</p> <p>execution 181:9 300:14</p> <p>executive 35:10,11, 16 36:20,24 37:5,18 38:3,4,9,14,16,21 39:3 78:10 366:24 367:18 386:10</p> <p>executives 369:3</p> <p>exhibit 5:15,16,18, 20,21,22,23,25 6:2,4, 7,8,9,10,11,12,13 13:13 91:20,21 104:23,24 135:8,14, 15 140:12,13 142:15, 16 151:20,21 170:18, 19 197:3,9,15 198:2 214:7 215:22,23,25 216:3,4,5,7,8,12 218:13,16,17 226:23, 24 236:16,23 237:19 258:18 297:23 302:7, 8 303:14 305:5 306:7 307:18,21 309:2,6 313:9 317:12 328:10, 12,13 338:13,21 341:13,14</p> <p>exhibits 267:10,11 268:9</p> <p>exist 15:12 16:17 114:22</p> <p>existence 67:15 69:18 80:16 81:6 99:14,20,24 102:3</p> <p>exists 278:13</p> <p>expanding 354:25</p> <p>expect 247:19 293:19 333:15</p>	<p>expectation 231:5</p> <p>expected 200:17,21 293:21</p> <p>expects 203:18 212:9</p> <p>experience 101:14 111:16 116:14 169:10 256:25 257:8 259:13 315:5 337:22</p> <p>experienced 47:13</p> <p>expert 43:5 143:19 153:7 183:9 257:14</p> <p>explain 356:18</p> <p>explained 364:17</p> <p>explaining 163:15</p> <p>explanation 308:20 311:8</p> <p>expressly 390:4,25 391:12 392:5</p> <p>extended 301:17 308:21 314:22</p> <p>extension 307:8</p> <p>extent 45:17 55:21 66:15 107:5 126:4 208:6 244:15 296:6 322:6</p> <p>extra 219:23</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face 50:23 120:11 144:16 244:3</p> <p>face-to-face 293:8 294:5</p> <p>facilitated 321:10</p> <p>fact 62:7 192:20 236:21 264:24 266:25 275:7 298:4 301:15 313:19 334:22 338:23 341:10 343:19 363:12 394:5,7,17</p> <p>facts 111:22 240:6 261:25 265:8 375:17</p> <p>factual 164:9</p>	<p>fail 12:3 348:5</p> <p>failed 338:23 340:2</p> <p>fair 11:23 19:24 44:14 49:7 52:4 93:17 99:13 110:21 118:11, 21,24 119:6,8,9 120:3,15 121:5 126:8,21 141:18 143:23 149:20 224:6 239:16 240:18,21 241:17 242:6 243:5 244:13,20 245:19 260:10 261:15 262:7 263:5,15 264:25 287:21 370:21 371:18 372:5 374:10 390:2</p> <p>faith 189:8,15 190:9, 12,19 191:3 193:19 194:20 205:8,14,23 206:14,23 208:5</p> <p>familiar 22:20 31:22 32:3 54:6,9 226:13 227:8,18 274:6</p> <p>fashion 86:11 276:16 357:14</p> <p>fault 229:17 276:24 277:19</p> <p>favor 60:6 62:19 139:17 161:24 261:9</p> <p>feature 301:17 315:8</p> <p>February 70:21 226:3,4 228:3,23 323:9</p> <p>Federal 7:19</p> <p>feel 81:8,18 176:25 273:13 287:16 371:21 376:11,16</p> <p>fees 332:12 356:21, 23</p> <p>fide 369:25</p> <p>figure 343:10 366:12 367:5</p> <p>file 167:8,13 297:2,10 337:8</p> <p>filed 21:6 197:17 208:18 213:23 215:13 219:23</p>
---	--	--	--	--

226:16 237:2,24 238:4 244:5 255:17 263:17,19 311:10 322:2,4,16,21 375:20 files 312:23 372:21 filing 45:25 240:4,17 246:3 249:9 256:20 264:15 filings 237:14 filled 257:13 finalized 88:7 89:12 230:23 finance 25:21 26:2,4, 8,17 28:15 38:23 127:25 128:16 129:6 280:7 290:14 351:3 financial 5:18 6:2 14:12 26:24 27:5 41:7 48:2 84:17,23 85:3,13,19 88:11 90:2,7 93:24 95:14 96:7 100:12 102:7, 10,12 104:21 105:17 107:22 112:2 113:7, 14 114:18 120:8,18 122:11 130:23 133:22,25 135:20 138:3,4,9 143:8 176:21,24 179:16,23 180:15 196:22 201:8 211:7,21 217:24 218:3,19,24 219:6 221:14 222:24 224:10 235:17 241:24 242:3,15,16 254:9 258:25 260:3 261:20 262:5 264:11, 13 270:10,14 271:2 286:18 301:11 302:19 306:4 311:25 312:5,6 370:9,12,17 378:24 financials 6:5 137:16 168:19 176:8, 16 179:8 186:15,16 187:2 189:23,25 200:10,12 218:12 241:13,15,21 242:2 246:9 247:5 find 53:23 268:10 283:17 315:4	fine 36:8,9 45:10 84:8 154:12 269:16 287:2 353:24 finish 11:21 12:2 76:18,24 249:19 295:11 fired 388:9 firm 10:21 fiscal 103:14 104:6 131:4 fit 42:24 flip 331:8 332:20 fluctuate 93:10 fluctuates 94:10 focus 242:14 313:3 folks 46:15,24 87:25 152:10 197:23 293:5 321:15 follow 61:17 151:15 391:18 follow-up 171:7 footnote 244:8 260:20,23 261:15,17 371:22 footnotes 261:17 263:11 forbearance 134:5, 16 forgave 49:23 51:23 52:12 93:20 forgivable 369:2 forgive 51:10,15,20 52:5 284:9 forgiven 52:18 53:11 94:11 366:23 367:23 369:13 forgiveness 52:22 93:23 94:8 365:23 369:16,20,24 forgot 282:8 form 20:4,20 22:14 25:15 29:21 31:16 33:9 34:20 40:10 41:4,12,24 42:11,12	43:17 50:6,7 52:8 53:18 54:8 55:10 56:11,25 58:25 59:19,25 60:7,15,17, 25 61:12 62:11 63:13,24 64:18,19 65:12,20 66:11,24 67:10,17,25 69:7 75:6,10 78:20 79:4, 14,20 80:2,12 82:24 83:25 85:15 86:2 91:4 94:3 96:11,20 97:5 99:17 107:15,16 108:5 110:11 111:24 112:20 113:20 114:20 115:5,7 117:6,18 119:12,13 120:16,17 122:10,16 124:6,23 127:19 132:16 133:23 134:8 142:5,7 143:10 144:8 145:2 146:13 147:5, 12 149:5,22 150:10, 17 153:18,19 154:2,4 155:11 156:17 158:15 159:17 160:2, 3,12,18,20 167:5 168:8 178:21 180:3, 5,11,13 181:5,11 183:15 184:6,20 185:2,18,24 191:5,23 193:21 194:5,6,23 195:21,22 196:5,12, 13,18 200:20 201:25 202:25 203:23 204:14,23 205:3,9, 11,15,16,25 206:8,21 208:10,12 209:9 210:24 211:4,13 212:13,21,22 213:11, 25 220:10,15 221:2 222:13 225:10,24 227:22 228:9 229:24 231:9,18 232:10 234:6 235:23 236:10 238:11 239:3,14,21, 22 240:16,23 242:24, 25 246:19,25 247:14, 15,16 248:4 249:5 250:11,22 251:11 253:12 254:6,7 255:11,23 256:18 257:6,11,15,20 260:14 262:19 263:9 265:4 269:7 270:15, 22 271:8,18 272:9,17	273:7 277:22 278:19 279:8 280:15,23 283:19 284:7,14 285:7,23 286:8,9 287:9,18,24 288:8,25 289:12 290:9,21 291:23 292:19 293:15,23 296:13 297:6 298:22 299:15 300:15 302:2,25 303:2,10,20 305:10 306:15,24 307:3,13 310:2,11,19,24 311:12 312:16,19 314:14 315:9,23 316:23 317:17,24 318:6,17,23 319:23 320:6,18 322:5,23 326:24 327:6,24 330:21 331:5 333:10, 18,20 334:10 335:4 336:14 338:3,5 339:16 340:18 341:3 342:21 345:12,19 346:22 347:14,19,21 348:10,11,12 351:15 353:11,15 354:4 355:5,9,15,21 356:3, 14 357:6,15,22 358:16,22 359:4,11 360:3,11,25 363:16, 22 364:10 365:6 366:15,25 367:16,25 369:4,8,17 370:3,25 371:10,25 372:22 373:4,20 374:11 375:3 376:20 379:10 380:25 381:14 384:13 386:14 388:19 389:5,15 391:4 393:24 394:10, 11,19 formal 231:20 format 293:14 forms 257:13 formulating 184:3 formulation 386:24 forthcoming 335:18 forward 79:17 376:25 found 53:17 66:12 125:6 140:15 394:8	Frank 5:5 8:10 9:11 10:11,18 271:4 305:8 395:14 frankly 232:2 Fred 249:21 Friday 208:18 329:18,25 front 110:12 122:12 140:16 279:21 281:7 294:9 301:11 302:9 305:4 309:7 343:6 frozen 144:9 frustration 364:17 full 189:8,15 190:9, 12,19 191:2 193:19 194:19 205:8,14,23 206:14,23 208:5 241:15 372:20 fully 13:4,7 17:4 364:19 fulsome 265:8 function 26:8,20 28:16 87:3 89:4 351:3 fund 3:18 9:22 22:21 33:23 35:2,6,18,19, 21 39:7 42:22 44:7 58:15 125:2,3,6,7,10, 11 127:10,13 145:16 152:14 176:18 202:14 203:14 215:14 273:17,23 274:16 275:2,4,6,8, 10,13 276:7,9,10 277:5,9,21 279:19 280:2 281:2,9,10,11, 12,13,15,20,23,25 282:7 283:23 308:4 325:22 fund's 274:23 funding 202:8 funds 32:22,25 33:2, 4,8,12,15,16,18,22 34:5,8,13,18,23 35:12,15,17,18 36:21,25 37:4,9,17 38:2,5,10,17,22 39:4 145:15 160:8 168:10 171:15 173:2,6,10,
---	--	--	---	---

13,16,20,23 184:11 192:16,24 193:4,6, 11,16 253:19 277:4,8 281:15 284:5 285:3 286:17 287:5 328:5 332:7,12 360:9 361:6,11,13 future 171:12 174:16 175:13 185:17 337:4 369:13 371:7,9,13,20 381:17 388:23 <hr/> G <hr/> GAAP 94:15 101:5, 16 109:10 130:21 131:23 241:13,15,20, 25 242:4,11 246:9 254:10 256:23 264:10 372:7 gaming 239:9 garbling 46:14 gave 45:14 57:11 149:2 197:23 205:6 215:10 312:21 343:9, 17 gears 321:25 324:20 gen 85:16 general 11:17 32:20 57:5 84:25 88:18 97:15,17 128:9,25 152:4,6,7,8 170:7 180:7 195:15 251:13 258:10 292:10 297:4 378:10 392:11 generally 54:9 61:2 62:14 64:2 80:23 84:24 87:6 89:7 95:8, 10,25 97:7 128:7,8, 19,24 129:8,13 162:2,3,8 170:6 180:14 187:19 189:20 192:11 194:8, 9,14 195:4 226:13 234:14 241:13 253:14,16,23 278:22, 24 279:3 290:2 297:16 311:3 333:25 334:2 337:4 356:12 357:13,18 358:20 366:7 372:18,24	379:11,12 387:2 389:10 give 12:25 20:11 35:5,9 38:15 45:4 49:6 51:7 86:15 96:15 97:17 116:14 117:4 123:12,13 150:8 159:22 163:17 193:25 235:25 236:6 267:8 300:8 348:21 356:9 357:9 372:9 giving 16:19 26:14 51:3 150:11 194:20 312:22 369:2 Global 35:18,20 124:25 273:17 281:8, 22 go-ahead 293:2 goal 295:19 God 156:19 good 7:3 10:19 72:16 118:5 156:19 248:11 251:3 324:22 353:3 385:5 governed 33:4 great 32:8 105:3 183:5 300:6 325:5 ground 11:17 group 14:5,7,24 15:4,14 16:14 29:23 146:5 148:24 149:2 150:15 154:19 172:13 258:13 290:16 291:9 292:2 294:18 295:9,13,22 378:16 groups 295:21 grow 88:23 89:4,9 guess 73:3 169:22 170:20 204:17 225:25 263:22 315:25 361:9 guidance 94:12,17 257:7,9,14 guy 25:21 81:19 88:25 guys 77:3 157:3	268:12 <hr/> H <hr/> half 72:16 145:10 280:20 324:23 377:21 halfway 48:18 hand 361:6 handle 291:14 handled 147:18 happen 141:14 156:15 165:2,15,18, 22 168:25 248:21 265:14 284:13 happened 87:23 156:22 165:17 174:19 247:3,5 273:15 286:4 294:3 320:10 happening 165:21 231:6 242:10 382:25 happy 117:4 188:19 200:10 215:7 389:25 hard 13:11,16 104:11 123:16 197:23 286:19 HARDD 3:22 Hardt 3:22 9:20 harmed 276:16 278:5 Harr 9:20 Hartmann 3:13 9:10 hat 336:4 Hatch 7:4 8:21 Hayley 3:7 HCFD 332:6 HCM 42:22 45:5 156:12 354:13 355:7 360:23 362:7,20 HCMA 186:18 HCMF 30:10 43:12 180:22 303:18	HCMF's 303:18 HCMFA 5:20 6:2 22:25 23:3,6,11,16, 22,24 24:6,9,11,13, 15,21 25:2,8,14,18, 24 26:3,5,8,22,24 27:4,5 29:3,6 31:5 32:18 43:12 54:14 100:23 122:2,7,13 124:14,21 131:11 132:6 133:12,21 134:11,14 135:6,21, 23 137:22 138:8,14 139:18 140:4,21 141:9,16 142:2,24 143:18 144:22 152:24 153:17 155:7, 10 156:4,13 158:4,12 161:7,17 171:13 172:20 176:14 178:12 179:13 180:22,23 181:2,8, 14,15 182:8,17 184:25 186:9,18 187:3,17 189:14,24 195:19 198:21 199:6, 12,14,19 201:15 202:7,12,14 203:14, 18 204:2,11,24 205:7,19 210:2,7 211:10 212:9,18 213:8 218:8 221:20 241:23 242:6 267:24 268:21 269:2,5,25 272:5,6,15,24 273:5 275:16 276:23 277:3, 18 278:16,18 279:7 280:11,21 284:5 301:9 303:6 305:25 308:14,20 310:10,16 313:15 314:7 316:6 318:14 322:3 325:12, 18 331:13 332:5,17 370:20 384:18 385:7, 12,16 386:4 HCMFA's 26:10 121:12,21 122:11 124:3 137:3,10 138:3,19 143:8 196:16 202:14 204:15,19 211:2 303:8 384:21 386:2 HCMLP 5:18,22 6:12, 13 171:13 176:9	185:16 314:7 316:5 317:6 341:19 355:12, 18,20 356:2 357:3, 13,19 358:4,13,20, 21,25 359:2,8,24 360:17 384:19 HCMLP's 228:22 356:12 HCMS 4:3 9:15 30:4, 6,7,10,13,16,20,22, 24 31:3 43:12 44:8,9 54:14 65:6 100:24 128:23 129:2,4 353:9,14 354:6,20,21 355:8,13,19 356:2 357:21 358:15 359:2, 8 361:5,15,20,25 362:4 364:3,25 383:19,25 385:7 393:21 394:7 HCMS' 356:13 357:13 HCMS's 359:13,19 HCRA 4:2 9:15 HCRE 31:8,14,15 32:4,7,10,12,15 43:18 44:7 54:14 65:6 100:24 128:4,5, 11,14 353:9,14 354:3 357:20 358:4,14,21 359:23,24 360:17 361:5,15,19,25 362:2,5,9,22,25 363:4,20 384:3 393:21 394:7 HCRE's 360:5,9,14, 21 head 87:13,16 278:3 364:15 headquartered 8:22 hear 46:13,20 148:12 304:3 364:16 heard 27:9 29:25 31:7 74:22 77:25 78:21,23 79:6,7 80:4, 5,7,22 100:6 268:5 285:3 324:15 386:16, 19,22 held 8:16 27:20 30:9, 12 37:8 107:12
--	---	--	--	--

172:25 173:5 174:3 183:6 244:4 Heller 4:12 9:16 Hendrix 172:7 186:21 230:20 292:3 328:17,20 329:13 330:14 332:15 341:18,24 350:18 362:24 365:13 377:11,22 hey 45:3 188:6 266:17 312:24 351:14 365:4 391:23 high 126:25 238:2 279:11 higher 110:19 Highland 3:4,18 8:11 9:6,22 10:22 11:6 15:16,23 18:6,7,12, 25 20:3 21:6 22:21 30:2 35:17,18 39:10, 15,19,23,24,25 40:3, 4,7,25 41:18 42:6,10, 18,21 43:11,16,23 44:6 45:2,14,25 46:7 47:16 48:6,14,24 49:5,10,17,23 50:4, 10,14,16,21 51:6,10, 15,20,23 52:5,11,18 53:9,10,24 54:11 55:23 58:15,16,20 60:6 61:20 62:8,19 63:8,20 64:7 70:20, 24 71:7,10,18 72:13 78:18 84:22 85:2 86:13,22 87:8,18 93:20 94:5 95:13 96:7 103:2 105:17 107:12 109:22,23 110:8 112:8 115:21 116:4 118:23 120:8 121:16,20 122:23 123:21 124:13,20,25 125:3 126:11,23 127:2,16,25 128:5, 10,15,20,23 129:2,6 132:5 133:10,16,20 134:13 136:2 137:7, 11,21 138:8,11 140:21 141:9,18,23 142:25 143:7 144:23 145:17,19 146:5 149:19 152:13	160:10 161:8,24 165:7 167:3,9,14,15 172:14,17 175:13 176:15 178:19,23 179:13,22 180:2,9 181:21 182:2,6,11,15 186:9,11 198:20 199:5,11,18 200:13 201:15 202:7,12,13 203:13 204:12,16,25 205:13 209:25 210:6 211:9,11 212:8,11,16 215:14,17 216:22 218:8 219:21 220:19 222:2,17 223:5,24 225:9,21 226:2,3,9 227:5,20 228:8 229:2,6,9,21 230:3, 10 232:22 233:24 234:17 237:12,16 240:7 241:2,7 242:6, 9 243:4 244:4,22,25 245:5 247:7 248:23 253:18 258:10 259:2 260:4 261:9 263:17 264:18 267:7 271:2, 15,23 272:20 273:4, 16 275:16,21 279:18, 19,25 280:2,12,14,20 281:8,22 282:17,23 283:5,17 284:5 285:18 286:21 287:6, 15 288:7 289:7,8 290:16 297:3,16 299:24 302:20,24 303:6,17 307:7 308:4 313:6 318:10,13 319:11 320:4 322:10 323:8 325:22,24 329:3 330:16,19 333:22 338:17 339:3, 11,13,25 346:11,19, 24 347:12,17 348:2,4 350:14,20 353:7,8,13 354:2,6,19 359:16, 17,18,21,25 360:7,8, 13 361:19,20 362:4 363:4 366:4,14 367:10 368:4,6,25 369:11 370:13,19 374:9 377:13,23 379:19 380:3,24 381:12 384:21,22,23 385:8,13 390:11 Highland's 18:10,17 19:3 39:10,15 40:25	41:7 44:24 46:6 47:16,24,25 50:19 51:10,15,20 52:19 55:16 57:8,17 72:6 84:10,17 86:23 89:22 94:22 95:6 102:7,10 107:14,22,25 109:20 113:9 115:23 116:2,3 137:15 138:3 139:17 146:10 165:2,3 166:4 167:3 187:2 210:22 222:24 225:8,15,23 230:5 241:24 242:15 243:4 247:22 255:7 258:5 260:12 262:5 266:19 370:21 379:8 381:22,25 382:5,8 hindsight 265:6,11, 15 hint 346:15 hit 86:9 hold 21:12,16 23:5,8 25:13 27:17 34:15 37:3,15,16,21 39:6 163:12,25 167:12 184:9 192:15 193:9 199:13 212:24 308:5 329:10 387:12 holding 37:25 holds 184:14,18 holidays 329:23 home 191:17 207:15, 19 219:19 299:6,9 342:25 343:2 348:16 393:7 honest 144:3 honestly 78:4 198:22 hope 82:2 262:22 hoping 300:7 Horn 4:11,12 7:22 9:16,17 349:10,13, 22,25 392:15 394:25 Houlihan 273:23 274:3,10,25 hour 46:24 72:16 324:23 387:9	hours 249:24 260:17 HR 280:7 355:2 357:25 Hunter 244:23 245:2, 6 247:11 260:22 <hr/> I <hr/> idea 150:2 154:21 156:23 201:24 232:14 Ideally 211:17 identical 298:11,13 299:20 380:13 identified 36:21 37:5,10 38:6,11,18 45:2 47:19 81:14 229:2,7 259:5,23 identify 35:14 42:14 52:17 57:23 58:6 60:10 61:3 62:25 188:24 191:18,25 264:24 identity 102:19 103:3 imagine 136:3 immaterial 53:3 94:19 immediately 347:8 impact 275:9,11,12 impacted 229:8 230:4 impacting 228:21 229:3 impairment 240:21, 24 241:3,5,11 important 11:21,25 12:25 impossible 299:7 impression 363:12, 18,24 in- 294:9 in-house 164:7 in-person 12:22 191:15 283:9,12 290:20 292:16 323:4,	12,18 342:23 392:21 inability 299:12 inaccurate 112:25 116:21 117:2,17 136:18 138:20,24 256:16 inaudible 48:14 148:10 include 26:9 106:25 189:7 230:3 259:24 263:3 305:7 351:18 355:3,8,13 368:17 included 54:17 81:4 108:4,7,19 175:13 176:23 183:21 194:18 200:12 213:22 217:23 222:2 232:14 239:11 243:12 251:15 252:12 312:12 315:8, 21 326:18 336:22 includes 172:3 including 132:11 178:15 253:24 335:21 366:21 368:6 income 35:18 179:17 incomplete 112:25 116:22 117:2 incorporated 153:9 incumbency 5:20 151:25 152:5,9,13 154:20 159:19 183:11 270:3 incurred 336:12 385:18 independent 72:7 166:22 233:7,12,15 348:3 indirectly 15:6 16:7 17:24 42:8,16 43:14 88:3 individual 11:3 271:24 272:25 300:10,12 individually 9:11 16:10 individuals 15:15
---	---	---	--	--

<p>276:21 285:18</p> <p>indulging 353:5</p> <p>inform 190:18 210:19 211:2 335:16 336:6 337:24</p> <p>information 16:14 80:19 86:10 88:13 91:12 112:5,17 117:14,15 169:11,13 171:20 176:8,15,22 179:16,17,18 188:8 206:3,5 218:20 230:3 236:7 237:13 257:18 274:4 312:10,24 344:19 368:11</p> <p>informed 69:18 178:17 190:24 210:5 211:9 212:8 288:15 335:16,23 378:7</p> <p>informing 64:13 181:25 182:11 330:5</p> <p>initially 132:17 185:5 247:3</p> <p>initiated 58:10</p> <p>initiating 58:12</p> <p>initiative 290:5</p> <p>ink 296:22,25 298:4</p> <p>ink-signed 297:3,10</p> <p>inquiries 160:9</p> <p>inquiry 210:12 274:16,17 376:6</p> <p>inside 187:22</p> <p>insolvent 302:22</p> <p>installment 217:2</p> <p>instance 52:12 57:16 60:10 377:16</p> <p>instances 335:25</p> <p>instruct 133:6 164:3 210:10,13,19 381:25</p> <p>instructed 77:15 147:8,9,23 241:19 291:7,8 315:7 362:8 381:22</p> <p>instruction 8:6 57:11 74:14,23</p>	<p>instructions 256:7 347:25</p> <p>insufficient 122:8</p> <p>insurance 385:17,22 386:2</p> <p>insured's 385:25</p> <p>intend 208:6</p> <p>intended 111:21 214:19 288:23 315:5, 19</p> <p>intending 16:25 146:16</p> <p>intent 306:14 318:20, 25 380:10</p> <p>intention 81:11 307:11</p> <p>interest 50:3 55:25 56:22 57:18 58:2 59:14,17 60:13 62:18 63:2,10 64:5,15,22 119:10,16,21 120:22 162:6 163:22 164:25 165:11 167:11 168:5 217:17 223:18 273:18 334:9</p> <p>interests 55:17</p> <p>internal 271:17</p> <p>internally 275:16 329:2</p> <p>interpret 119:8</p> <p>interpreted 74:20</p> <p>interrupt 375:23</p> <p>interrupted 76:25</p> <p>interrupting 77:16, 18</p> <p>interviewed 322:18, 22</p> <p>intimately 292:6,13</p> <p>intimidate 376:13,17</p> <p>introduce 9:2</p> <p>invalid 136:24 235:5</p> <p>investigations 275:17</p>	<p>investment 4:10 9:18 32:21 65:11 127:17,24,25 128:12, 14,16 129:3 244:23 245:3,6 247:11 273:24 274:15 279:21</p> <p>investments 128:17 129:5,6 249:23</p> <p>investors 275:10 276:12 277:4,8,21 281:18</p> <p>invoices 185:10</p> <p>involve 366:13</p> <p>involved 237:10 245:2 264:17 274:14 275:15,21 276:21 288:4 292:6,13 293:6 354:10</p> <p>issuance 131:5 138:10,18 371:14</p> <p>issue 54:7 178:14 191:13 201:25 204:10 208:24</p> <p>issued 56:16 60:5 62:19 65:8,18 66:8 81:13 82:15,20 93:13 107:13,20 108:2 131:11 132:6 133:12 161:23 162:5 180:10 218:25 223:7,17 233:8 234:10,15 235:4,9,21 236:8 242:8 243:7 261:9 262:6 263:6</p> <p>issues 113:5 248:14 306:19</p> <p>item 108:19 111:11, 18 112:4 119:2,16 123:6 185:21 220:5 238:20 259:18,24</p> <p>items 53:3 97:21 100:9 112:3 131:21 149:8 228:21 229:3,7 230:4,7 249:22 260:6</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>James 234:11 271:25 273:2</p>	<p>January 70:16 163:7,8 219:11,13,17 258:20 326:8 341:6, 18 344:2 350:5,9,13, 24 351:20 361:25 362:3,7 364:8 365:2, 15 383:23</p> <p>Jason 185:3 275:24</p> <p>Jim 4:2 9:14 15:6 16:8 19:8 43:15,24 44:5 50:11,25 65:16 67:6,22 68:18 71:23 72:2 75:24 78:9,16 82:22 123:3,20 189:9,16 190:10,13, 15 205:9 206:23 232:18 273:2 280:19 342:5,7 351:5,10,14 362:8,10 363:8,18 365:3 367:8 368:22 379:25 381:9</p> <p>Jim's 367:22</p> <p>job 25:19,25 42:3 219:20 313:2</p> <p>John 3:6 7:24 9:4 10:20 45:3 46:13,18 69:13 74:8 76:15,17 77:10 95:17 105:23 129:18 146:13 154:7 155:18 157:6 177:6 192:18 208:13 216:2 222:14 236:18 267:18 304:6 308:7 353:18 385:3 387:10, 16</p> <p>join 18:12 317:25</p> <p>Jones 3:8 9:5 10:21 72:10</p> <p>July 307:24 317:9</p> <p>jumping 234:18</p> <p>June 92:2 98:17 99:25 103:2 132:25 135:2 137:6 176:10, 24 186:16 200:7 242:23 262:16,24 263:13 265:3</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Karesa 249:21</p>	<p>key 275:20</p> <p>kidding 330:23</p> <p>kind 168:2 188:12 221:12 222:23 245:22 250:5 274:16 276:4 323:6 329:22, 23 337:8 353:13 356:10 358:13,14 380:23</p> <p>kinds 353:6 354:2 357:2</p> <p>Kirschner 4:16 10:5</p> <p>Klinger 7:12 8:24</p> <p>Klos 87:20 124:9 172:6 230:19 275:23 292:3,18 389:9</p> <p>knew 68:18 103:9,10 369:2</p> <p>knock 364:19,20</p> <p>knowable 371:14</p> <p>knowledge 43:10 46:5 47:23 48:12,21 49:9 50:13 52:5,10 53:10 62:5 63:12,16, 21,23 79:23 80:10 81:5 82:7,8 89:23 93:23 95:3 98:17 101:13,19 102:2,25 106:25 111:16 112:6 138:16 144:24 147:8 153:13 167:8,22 184:10 188:15 189:9 194:13 206:5 207:8 208:2 225:5,12 226:21 232:21,23,24 237:11 243:4 259:22 322:19 324:17 384:18</p> <p>Kopf 3:22 9:20</p> <p>Kristin 172:7 186:21 230:20 292:3,12 328:17 342:11 343:8 350:17,18 362:23 365:13</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>L.P. 3:19 8:12 9:6,23 10:22 11:7 15:16,23</p>
---	---	--	--	--

18:7 41:19 42:10,18 43:16 58:17,21 109:23 110:9 152:14 172:15 271:3 279:20 325:25 329:3	learning 75:3 83:23	levels 274:2	94:10 126:16,17 128:15 142:5 145:6 203:13 225:13,20 254:3 270:20 271:5, 15 272:7,8,16,21 284:5 285:5,6,11 303:6 318:15 331:14 332:9,14,17,24 333:3 335:12 357:2,13 358:20,25 359:2,9,25 361:18 362:22 363:8, 13,19 364:3,9,25 365:16 393:23	18 134:6 136:2 158:5,14,19,24 159:5,10,16,24 160:17,25 198:19 201:8 220:9,13 222:5 224:2 262:8 265:8 316:10,13
La 4:24 104:25 118:3 129:16 135:10 177:14 218:14	leave 157:23 321:13, 15,20	liabilities 5:24 175:17,22 190:2,6 194:2 195:19 196:2, 8,17 204:19 211:3 220:4 237:20,23 242:12 301:8 303:9 307:9 317:8	loaned 39:11,16,19 41:2 43:23 48:14 50:10 124:14,17,20 126:23 128:10 202:7	loop 148:3 294:19
labeled 8:9	ledger 258:10	liability 175:14 217:24 276:24 277:19 280:21	loaning 39:24 307:7 317:6	Lord 248:11
laborious 145:12	leeway 16:13 208:14	liable 306:12,21 307:11 317:21	loans 40:4 41:8,23 42:9 44:10,12,16 45:15 46:8 47:18,25 48:6 51:11,23 52:22, 25 61:9,25 91:2 94:6, 8 105:8 125:24 126:10,11 128:15 129:10 131:2 202:14, 17 225:6,7 255:8,14 259:24 271:11,20 273:6 287:7,8 288:22,23 317:6 318:4 331:22 333:12, 14 335:13 355:19 365:23 369:3,11,14 370:10,15	losses 276:7,11
laid 56:6	left 20:2 70:20 71:10, 18 87:8,18 164:25 165:3 166:4 167:3 226:2,3 232:22 296:17	license 21:22,25 22:2,8,9	loans 40:4 41:8,23 42:9 44:10,12,16 45:15 46:8 47:18,25 48:6 51:11,23 52:22, 25 61:9,25 91:2 94:6, 8 105:8 125:24 126:10,11 128:15 129:10 131:2 202:14, 17 225:6,7 255:8,14 259:24 271:11,20 273:6 287:7,8 288:22,23 317:6 318:4 331:22 333:12, 14 335:13 355:19 365:23 369:3,11,14 370:10,15	lot 55:4 143:24 147:16 162:15 188:3 208:13 225:4 245:21 248:16 249:11 278:2 286:22 289:24 307:15 320:9 349:19 364:14 373:12,13
landline 393:7	legal 7:5 8:21 25:5 29:23 42:19 43:5,7,8 44:17,21 45:4,9,17 46:11 47:20 48:3,16, 25 49:13 55:21 107:5 126:4 127:11 142:6 143:15,19 146:5,10 147:3,9,24 148:2,4,5 149:7,11,15,24,25 150:20 153:2,7,8,12 154:8,19 155:12,13, 15,23 156:2,6 157:8 164:12 167:20 172:13 183:9 193:16 212:25 280:8 290:16 291:9,13,16 294:18, 20 295:5,8,13,22 296:4 322:18,22 351:18,21 354:8	licenses 21:13,16,21 22:12,16	loaning 39:24 307:7 317:6	lots 169:12,13 373:8
language 101:4 315:21 316:2,3	legitimate 348:18	life 377:2	loans 40:4 41:8,23 42:9 44:10,12,16 45:15 46:8 47:18,25 48:6 51:11,23 52:22, 25 61:9,25 91:2 94:6, 8 105:8 125:24 126:10,11 128:15 129:10 131:2 202:14, 17 225:6,7 255:8,14 259:24 271:11,20 273:6 287:7,8 288:22,23 317:6 318:4 331:22 333:12, 14 335:13 355:19 365:23 369:3,11,14 370:10,15	Louisiana 4:14
large 287:22 379:22	lender 273:4	light 293:2 299:11	log 393:12	love 252:17
largely 11:18	lending 127:2 302:21 303:17	lighting 35:25	logging 395:3	lower 274:2
larger 356:8 357:10	lengthy 105:15	list 83:12 100:9 243:17 245:16,24 246:6,23 247:10,25 249:2 250:10 251:22 254:3 317:9 377:22	logical 291:20 309:23 315:4	LP 3:17 9:21
late 323:6 379:21 387:9 388:3 390:17	letter 91:16 92:2 93:13 95:5,16 96:9 98:23 99:2,3,7,11,16, 21,25 103:7,14,18,23 104:8 106:11,15 130:8 135:25 136:7, 17 262:16,22,25	listings 40:18 252:7	logically 310:9	lunch 139:25 150:22 158:6,14,20,25 159:6,11,16,24
launching 127:10	letters 94:21 95:11 96:19,22 97:3,8,13, 19,25 98:9 136:14	listed 214:6 238:8 311:10 312:3 330:13 371:8	logistically 321:10	lured 231:4
Lauren 171:4 183:24 192:5,12 275:24	level 22:11 53:7 92:25 93:5,25 238:2 279:11 287:23 288:4	lists 152:10	Lokey 273:23 274:3, 10,25	M
Lauren's 185:9		litigation 4:17 10:5,6 16:12,20 17:3 267:15 373:23 374:5 375:25	long 192:8 233:4 333:14 353:4 385:3	Madam 268:8
law 12:11 306:9,11, 20		LLC 31:8 32:4	long-term 333:17	made 15:14 46:8 47:18 48:6,9 49:24 51:11,16,21 52:6,13 56:8,14,22 57:6,25 58:4,11 60:21 61:4, 11,19,22 62:2,4,18 63:2 64:5,9,14,22 78:5 98:19 121:24 122:2,9,15,21,22 124:4 125:25 127:21, 24 128:14 129:12 130:9 131:4 134:17 139:9,13,16 148:5 159:9 161:4 162:10, 11,18 163:6,10,21 165:10 168:2 182:15 190:14 195:10 202:6, 13 203:14 217:14 225:7 242:6 245:8,9
Lawn 4:7		LLP 9:13 354:13	longer 282:2 380:15 381:11	
lawsuit 55:8 164:13 181:22 375:19 376:6, 23		loan 40:7 42:18 43:16 45:21 48:8,15,23 49:4,10,17,24 50:4, 15,20,24 51:2,5,16, 21 52:6,13,17,22 53:11 60:21 61:3,10, 19,22,23 62:9 63:10, 15,22 64:10 93:20	looked 101:2 111:12,	
lawsuits 53:25 54:7, 10,12 322:15				
lawyer 73:19 154:15 157:7 164:5 266:16 373:24 375:16				
lawyers 147:20 374:3				
lead 269:15				
leading 269:8				
learn 65:15 67:15 89:4,9 104:13				
learned 66:16 68:3,8, 11 69:25 70:6,10,15, 19,23 71:17 76:2 80:19 90:19 340:17				

261:19 262:24 271:21 288:21 295:17,23 299:7 306:12 314:2 315:15 316:21 317:15 327:16 328:5,8 334:22 335:3 343:19 345:11 350:23 351:8, 20 358:20 359:7,14, 20 360:2,17,23 361:25 362:2,4,6,12, 16,18,22 363:7 364:25 365:10,14,15 373:19 378:8 379:16, 23 382:22 383:23 384:6,7,9,11,20 385:16,21,25 386:2 390:21 394:8,18	216:19 305:18 makes 123:16 153:3, 22 345:17 making 40:7 41:22 88:6 160:9 282:22 293:4 335:9 337:20 343:4 344:23 345:4 363:9,14 381:3,6 manage 26:7,17 28:15 38:23 116:11 354:11 managed 113:24 125:2 332:13 361:12 management 3:5,18 5:16 8:12 9:6,22 10:22 11:7 15:16,23 18:7 22:21 26:20 30:2 41:19 42:10,18, 22 43:11,16 44:6 58:15,17,20 70:21 90:21 91:16 94:21 95:4,16 96:8,18,21, 23 97:2,8,12,19,24 98:9,25 103:17,22 104:8 106:11,15 109:23 110:9 125:3 128:20 130:8 135:24 136:6,13 152:14 172:14 215:14,17 232:13,15 262:16,21, 22,25 271:3 279:18, 19,22 280:2,3 308:4 325:22,24 330:16 332:12 354:7,19 359:16,18 360:7,9,14 manager 116:9 230:16,22 291:12 managers 88:23,24 230:18 274:5 292:2 managing 88:21 292:5 Marc 4:16 10:5 March 14:8 323:6 mark 49:18,21 232:18 268:15 marked 91:21 104:24 135:13,15 142:16 151:21 170:19 197:9 215:23 216:7 218:17 226:24 236:23	237:18 258:18 297:23 302:8 307:21 309:6 328:13 338:13 341:14 market 119:6,9 120:15 240:21 241:17 242:7 243:5 265:11 274:2 371:15 matching 222:22 material 53:12 104:5 111:22 112:3 113:11 131:6 133:25 171:11 174:14 185:15,21 274:15 materiality 52:24 53:7,16,20 92:18,20 93:2,5,8 94:2,7,9 98:15 104:7 117:11, 13 materially 274:23 materials 175:4 maternity 321:12,14, 20 math 109:17 110:13 221:8 239:24 260:15 311:7 matter 236:21 260:9 matters 313:5 maturity 314:22 315:6,7 Mckenzie 3:14 9:9 meaning 231:3 274:18 276:12 290:13 296:4 meanings 41:14 means 33:23 41:11 118:17 284:16,22 329:19 366:3 meant 186:8 301:24 measurement 240:18 mechanic 155:13,16 media 8:9 meet 194:3 323:3 378:25	meeting 68:5 70:2 168:21,23 169:15 189:7 192:9 206:12 231:20 283:9,10 290:20 300:23 323:11 meetings 184:8 323:20 members 89:2 166:23 191:21 192:3 233:16 237:7,9 323:16 memorialized 75:9 memory 95:23 133:2,5 224:11,16 314:20 319:17 331:17 mental 260:15 mentioned 131:17, 20 273:10 281:2 282:12,15 289:15 351:12 368:24 met 268:3 methodology 274:18 Michael 4:5 9:24 Michelle 3:13 9:9 151:7 micromanage 337:6 micromanaging 89:3 mid 341:5 366:9,10 middle 119:19 121:8, 9 152:21 milestones 66:3,9, 12,22 69:2 76:3 79:2, 9 84:4 million 92:22 119:23 121:3,6 124:17 131:13 132:2,8 138:12 140:14 141:9, 18 142:19 143:12 144:6,17,23 161:25 178:19 216:17 217:16,19 220:13,20, 24 221:7 223:7,17 224:2 238:9 239:10, 12,24 268:22,23	270:20 271:6,7,15,16 272:7,8,16 273:6 277:11,12,16,20 278:6,7 282:14,15 283:18 287:15 288:6, 20 302:22 303:6,18, 24 304:11,20 305:23 306:2 307:7 308:16, 20,21,22 309:25 310:17,23 311:2 315:13 317:6,10 318:14 334:7,19 336:13,23 337:25 339:4 340:10 341:23 343:19 344:5 345:11 350:7 351:22 389:13, 14 million-plus 289:22 millions 260:19 mind 19:20 59:23 60:4 160:6 161:17 198:18 305:17,21 394:16 mine 268:15 minimal 86:4,5,17 minute 129:19 174:8 372:9 minutes 53:23 139:24 174:21 176:4 182:23 266:20 267:3 325:3,4 348:25 372:12 misapplication 163:15 misremembering 229:13 missed 339:12,14 340:7 misspeak 301:23 misspoke 301:21 336:16 mistake 61:17 139:9, 13,16 159:9 161:4 162:11,19 165:9 181:10 306:23 314:2 316:22 317:15,22 mistaken 304:14 mistakenly 167:10
--	---	--	---	--

168:4 214:11 mistakes 384:19 mode 283:9 model 274:3 moment 117:4 198:10 222:5 224:3 276:5 307:22 money 39:11,16,24 41:2 43:24 49:11,17 50:10 62:9 124:14,20 126:6,23 127:3,15,25 128:5,10,23 129:2,5 145:16,18 186:10 276:13 282:8 283:5 285:18 318:10 319:11 320:4 359:9, 13,24 360:21 374:22 moneys 39:19 162:5 167:9 277:8 282:17 283:16,22 289:5 359:15 month 59:11 132:23 226:16 229:15 258:21 332:4 month-and-a-half 323:10 monthly 5:25 226:11,14 227:5,20, 25 228:12 229:10,19, 21 230:2,11,22 231:14 232:6,8,13, 19,20 255:18 256:14, 19 259:9,12,14 months 261:21 292:25 morning 7:3 10:19 342:16,18 344:12,14, 16 Morris 3:6 5:6,9 7:24 9:4 10:7,15,20 13:10, 17 16:9,24 17:11,14, 19,20 22:16,18 31:18,19,21,25 35:24 36:5,11 45:6,10 46:15,23 47:4,6,11 55:4 69:8,11 72:15, 18,25 74:3,9,13,18, 24 75:11,15,19 76:19,23 77:2,11,19, 22 81:16,18,21,23	82:10,13 91:8,18,22, 24 92:9,11,14 95:9 105:4,25 110:22 114:11 118:2 129:15, 21,24 130:14,18 135:5,10,13 136:9 137:24 139:20 140:11,23 142:14 146:17 150:21 151:19 154:3,13,16 155:19,22,25 156:18, 25 157:3,10,13,21 170:17,20,25 171:24 174:18 177:9,14,16, 19,23 178:10 195:6 196:20 197:6,21 201:11 202:3 207:15 208:20 209:13 214:4, 8,10,14,21 215:3,10, 21,24 216:4,13 217:5,8 218:11 219:25 221:23 222:16 224:18 226:22 228:18 236:15,20 243:15 246:13 247:21 248:5, 11,22 249:18 250:6 251:23 252:4,8,16,24 253:4 254:17 258:16 259:16 265:23 266:9, 17,24 267:14,20 268:14 269:7,12,18 270:15,22 271:8,18 272:9,17 273:7,10 277:22 278:19 279:8 280:15,23 282:12,18 283:19 284:7,14 285:7 286:9 287:9, 18,24 288:8,25 289:12 290:9,21 291:19,23 292:19 293:15,23 295:12 296:13 297:6 298:22 300:15 301:13 302:2, 11,15 303:2,10,20 304:3,7,12 306:15,24 307:13 308:5,8,13 309:10,12 310:2,11, 19,24 311:12 312:16 313:13 314:12,14 315:9,23 316:23 317:17,25 318:6,17, 23 319:23 320:6,18 322:5,23 326:24 327:6,24 329:10 330:21 331:5 333:10,	18 334:6,10,21 335:4 338:3 339:16 340:18 342:21 345:12,19 346:22 347:14,19 348:12 351:15 352:4, 8,16,18 353:11,15,19 354:4 355:5,9,15,21 356:3,14 357:6,15,22 358:16,22 359:4,11 360:3,11,25 363:16, 22 364:10,22 365:6, 21 366:15,25 367:16, 25 369:4,8,17 370:3, 8,25 371:10,25 372:22 373:4,20 374:11 375:3,24 376:20 377:6 387:7 388:19 389:5,15 390:9 391:4,14 392:7,13 393:24 394:11,19,23 395:5 Morris' 313:9 MORS 256:3 motion 374:14 376:7 Mountain 244:23 245:3,6 247:11 260:22 mouthpiece 206:2 move 69:11,12 114:11 208:19 246:13 247:21 248:22 250:6 252:23 307:17 364:22 376:25 moved 126:6 moving 248:5 muffled 48:19 multi-month 145:11 multiple 279:3 320:25 321:2 373:7,8 Munsch 3:22 9:20 mute 36:10 350:2 myriad 248:14 249:11 <hr/> N <hr/> N-A-V 273:11	naively 263:23 named 44:3 376:23 names 229:11 300:8 309:19 311:25 312:4, 13 375:20 Nancy 4:2 9:14 65:9, 17 66:7 67:6,22 68:19,25 75:25 78:16 82:22 Naomi 321:7 narrative 111:17 nature 84:4 85:6 144:2 147:17,18 180:20 230:8 240:22 253:18 259:15 271:20 276:10 279:22 280:9 292:22 294:22 325:19 329:24 333:13 354:12 356:6,17 357:11 378:23 NAV 125:6,9 131:17, 24 132:3 145:8 273:11,14 274:23 275:8 277:5 278:15 280:12,22 281:13 289:6 318:15 373:10 needed 155:2 250:17 257:13 271:21 289:6 318:13 354:15 358:8 382:15,17 needle 118:4 negative 7:25 394:14 negotiated 390:8 negotiation 382:25 negotiations 58:19 383:2,6,12 384:14 Nelms 233:21 Newman 4:18 10:3 Nexpoint 3:17 6:4 9:21 27:10,12,15,18, 21,25 28:4,6,16 29:7, 10,12,16,24 31:3,11, 17 32:17 42:21 43:12 44:6 54:14 58:7,11, 14 60:5 65:6 100:23 126:9,13,16,23 127:3,10,11,15,18,24	161:23 162:5,7,11,18 163:23 164:6 165:11 167:7,8,13,15 168:2, 6 171:13 172:21 176:14 178:12,17,18, 22 179:13 182:3,12 184:21,23 186:9,21 189:15 196:3,23,24 216:20 217:14,23 218:3,19 219:15,22 220:18 221:6,10,13, 25 223:5,24 241:23 242:6 260:4 267:24 309:24 322:3 325:14, 18,21 326:16,23 327:4,10,17,20 328:6,7,8,25 329:3 330:11,18,19 331:2 332:14,17 333:8,15, 16 334:5,8,22 335:3, 9 336:13 337:13,23, 24 338:23 341:19 342:9 343:18 345:17 346:12,16,20 348:4 353:8,21 358:15 379:16 381:23 382:10 383:24 384:3 390:5 391:2,10,12,19 392:5 Nexpoint's 59:18 218:6,12 219:6 331:3 336:22 350:19 Nguyen 3:21 268:10 297:19 298:9 302:5 303:14 305:3 306:7 307:19 308:11,25 309:3,4 311:22 313:8 317:3 331:9 332:21 338:12,21 341:15 343:11 345:23 night 376:8 nomenclature 350:4 non-american 284:10 non-orderly 274:8 nonlawyer 375:13 nonsense 156:6 Norris 183:3,6 184:2, 7,9 192:15,23 193:5 North 3:15,23
---	---	---	--	--

<p>Northern 8:13</p> <p>note 13:11 45:14,21 48:15,22 49:6,12 50:15,22 51:7 56:7 57:4,19 59:18 60:5, 13 62:19 63:3 64:6, 15,23 78:17 107:20 117:9,12 120:18 122:4 126:12 134:6 140:14,17,20 141:22, 24 142:2,4,18,22 147:15 149:17 150:4 161:24 162:4,7,18 163:23 165:12 167:11,15 168:6 182:3,12 186:18,22 187:17 213:16 214:4 216:16,20 217:2,13, 23 220:5,8,13,18,20, 23 221:5 222:4,10 223:4,7 224:2,9,12 233:22 234:10 243:17 244:23 245:3, 7,13,16,23 260:22,25 261:9 306:11,18 309:16,24 310:9 312:2,14,15,24,25 313:15,16 315:13,14, 16 316:17,18 319:12, 14 324:16 334:6,13, 18,19,23 335:21 336:13,23 338:2,17 339:4 340:10,14 341:19,23 342:9 343:4 344:25 345:18 347:7 362:13,14</p> <p>noted 185:5 186:17</p> <p>notes 6:10 44:20 45:2 46:2 49:21 50:18 54:3,6 55:7,18, 25 56:10,15,23 58:2 65:7,14,18 66:7 67:3 68:14,17 76:2 82:15, 20 83:6,10,13 106:21 107:2,12 108:2,14,18 109:5,7,17 110:6,25 111:5,8,12,22,25 112:18,23 113:9,10, 13,18 114:19 115:3 118:12,13,25 119:3, 6,9,11,22 120:19 121:3,21 122:8,15 123:6 124:3,15 130:23 131:12,16</p>	<p>132:7,10,14,20 133:13,21 134:5,14, 17,23 138:11,20 139:5,10,17,21 142:10 143:6,7,14, 21,23 144:5,12,16,22 145:4,23 146:2,4,7, 11,14,25 147:10 148:15,18,24 149:2 150:5,8,15 158:5,13, 19,24 159:5,10,23 160:16,25 161:5,9, 10,19 162:11 171:13 175:16 178:14,15 179:14,21 180:2,10, 24 181:4,9,16,22 182:8,16 205:19 209:2 210:8 213:7,8 222:2,17 223:13,16, 19,23 224:9 233:8 234:15,23 235:4,9, 14,21 236:3,7 238:20,25 239:4,5, 11,18 240:10,20 241:6 242:7 243:6, 11,18 244:4,15 246:6,15,22 247:10, 24 248:25 250:9 251:8,15,21 252:12 253:10 261:12,16 262:6,11 263:6,15 264:19 268:21,24 282:14 284:19 285:15,17 288:21 289:10,16,18,22 290:8,13,16,24 291:5 293:13 296:9 297:4, 5,11,17,21 298:17 299:11,14,18 300:13 301:18 304:19,24 305:2,18,22 306:21, 23 307:12,24 310:17 312:11 313:20 314:13,23,25 315:2, 20,22 316:2,14 317:10,16,21 319:5, 9,15,18,22 322:20 323:20,25 333:17 338:7 364:13 366:22 367:23 368:6,17 369:15,19,20,25 370:9,11,17 372:11 386:9,10</p> <p>notice 7:25 356:9 357:9 379:6 380:10, 15,16,17 381:4,7</p>	<p>noticed 16:12,20 248:6 375:25</p> <p>notices 380:21</p> <p>November 59:12 328:16 329:14,19 330:15 331:12 332:3 380:9,18 388:3,6 390:22</p> <p>NPA 5:15 189:24 328:21,22 331:13</p> <p>NTA 338:16</p> <p>number 8:9,14 13:13 15:24 17:25 93:7,10 100:10 108:9 111:7 126:10 135:10 137:25 139:22 170:24 177:15,16 179:4 197:4,7 218:13 222:21 236:21 239:25 240:9 277:17 282:9 285:15,16 286:5 343:25 344:5 370:22 377:9 389:18, 21</p> <p>numbers 240:5,6,23 268:13 278:10 343:5 366:12,19 367:6</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>Oak 4:7</p> <p>object 29:20 45:7,8,9 47:4 60:24 65:19 66:10,15 67:9,24 69:6 73:24 77:13 78:19 79:20,25 97:4 107:16 115:5 119:12 144:25 146:12 147:4, 11 149:21 151:13 156:7,16 159:25 164:2 180:4,11,12 191:4,22 194:6,22 202:24 206:7 208:10, 11 211:4 212:12,20, 22,24 213:25 220:25 225:10 227:21 231:8 232:9 239:20,22 248:3 249:4 250:11 251:10 253:12 254:7 255:10 256:17 262:18 269:7,14,17 347:21 348:11,12</p>	<p>352:14 365:6 381:13 384:12 386:13</p> <p>objecting 154:3</p> <p>objection 8:4 17:9, 10 20:4,20 22:14 25:15 31:16 33:9 34:20 40:10 41:4,12, 24 42:11,12,19 43:17 44:17 45:4,16 46:10 47:20 48:3,16,25 49:13 50:5,7 52:8 53:18 54:8 55:10,20 56:11,25 58:25 59:19,25 60:7,15,16 61:12 62:11 63:13,24 64:17,19 65:12 66:24 67:17 69:5,9,10 75:6, 10 79:4,14 80:12 82:24 83:25 85:15 86:2 91:4 94:3 96:11, 20 99:17 107:4,15 108:5 110:11 111:24 112:20 113:20 114:20 115:6 117:6, 18 119:13 120:16,17 122:10,16 124:6,23 126:3 127:19 132:16 133:23 134:8 142:6 143:10,15 144:8 149:5 150:10,17 151:16 153:18,19,25 154:6 155:11 157:2 158:15 159:17 160:3, 12,18,19 167:5 168:8 178:20 180:3 181:5, 11 183:15 184:6,20 185:2,18,24 193:21 194:5 195:21,22 196:4,11,18 200:20 203:23 205:3,15,25 206:21 210:24 211:13 213:11 220:10,15 222:13 225:24 228:9 229:24 231:18 234:6 235:23 236:10 238:10 239:3, 14 240:16 242:24 246:19,25 247:14 250:22 251:12 254:6 255:12,22 257:6,20 260:14 263:8 265:4 266:19,23 267:21 270:15,22 271:8,18 272:9,17 273:7 277:22 278:19 279:8</p>	<p>280:15,23 283:19 284:7,14 285:7,23 286:7,9 287:9,18,24 288:8,25 289:12 290:9,21 291:19,23 292:19 293:15,23 296:13 297:6 298:22 299:15 300:15 302:2, 25 303:2,10,20 305:10 306:15,24 307:2,13 310:2,11, 19,24 311:12 312:16, 18 314:14 315:9,23 316:23 317:17,23 318:6,17,23 319:23 320:6,18 322:5,23 326:24 327:6,24 330:21 331:5 333:10, 18,20 334:10 335:4 336:14 338:3,5 339:16 340:18 341:2 342:21 345:12,19 346:22 347:14,19 348:9 351:15 353:11, 15,18,24 354:4 355:5,9,15,21 356:3, 14 357:6,15,22 358:16,22 359:4,11 360:3,11,25 363:16, 22 364:10 366:15,25 367:16,25 369:4,8,17 370:3,25 371:10,25 372:22 373:4,20 374:11 375:3 376:20 379:10 380:25 388:19 389:5,15 391:4,14 392:7,13 393:24 394:10,11,19</p> <p>objections 209:9</p> <p>obligated 161:18 262:13 304:23 334:8</p> <p>obligating 144:22</p> <p>obligation 234:22 242:20</p> <p>obligations 160:9 178:15 179:12 180:2, 9,23 185:15 194:4 208:8 327:13,21 328:8 332:5,8 333:17 335:17 336:6,7,10 361:19 380:2 390:10, 12 391:7,8</p>
--	--	--	---	--

obligor 264:18	offsets 58:21 381:18, 19 383:13	originally 177:21 232:16	P	367:24 386:9,10
obnoxious 364:23	Okada 49:18,21,24 50:2 118:3 232:18	originals 297:4,11, 16	p.m. 150:24,25 151:3 174:6 224:23,24 225:2 266:5,6,8 325:7,8,10 349:6,7,9 372:14,15,17 395:10, 11	participants 8:17
obstacles 90:23	omitted 309:19	Orleans 4:14 9:17	Pachulski 3:8 9:4 10:20 72:9 166:19	participate 168:13 218:23 219:2 362:21 380:5
obtain 57:12	one-day 331:14 332:9,17	outboxes 294:9	package 229:10,20, 22 230:2,12,23 232:6,8 233:3	participated 87:25 137:20
obtained 48:23 49:5 50:4,16 51:6 126:10 128:15 176:16	one-third 239:18	output 90:6	packages 231:15 232:20	participating 191:9 259:8
obtaining 62:10	one-word 174:9	outstanding 118:12 119:22 142:10 171:11 174:15 175:12 185:10,23 186:8 202:6,18,23 203:7,8,13 220:18 222:3,12 223:4,14, 19,24 224:13,17 235:10,14 244:16	pages 214:11,17	participation 86:23
occur 169:6 280:13 331:21	ongoing 125:11 202:8,14 203:14	overpaid 58:16 381:16	paid 50:2 56:18 167:10 221:7 277:4, 8,20 283:23 327:22 330:19 331:4 333:16 336:9,11 355:19 356:23 365:4 394:9	parties 7:15 9:25 85:7,12 100:14,22 101:6,23 103:4 376:13
occurred 103:13 104:5 125:17 126:2 263:13 278:15 299:25 331:24 339:7 369:24 390:24	open 36:13 376:5	overpayment 381:20 390:13	paper 288:21 293:13, 20 296:12,16	partner 9:9
October 8:19 21:7 160:5,7,14,21 169:17,24 171:19 172:4 173:24 174:6 183:7,14 186:11,13 189:13 207:16 219:24 263:19 314:20 316:16	open-end-to-close-end 125:12	overpayments 58:22 379:22 380:3 389:4,12	paragraph 92:17 118:11 119:20 121:9 124:15 126:9 134:11 140:18 142:22 203:6 216:25 221:24 222:7, 9,10,14,16,18 223:9, 15	partners 31:8,12,15, 18 32:4 370:16
odd 303:12 307:6	open-ended 125:7 275:4,8 276:10 281:9,11 282:7	overruled 17:15	paragraphs 117:23 118:6	partnership 121:11 122:6 131:12 132:7
offense 352:23	operating 5:22,25 90:10 226:11,14 227:2,4,19 228:7 255:18 256:14,20 259:9,12,14 359:14	overseeing 26:10 86:22 230:11	part 42:9,17 43:15 50:18 51:11,16,21 52:12,19,23 53:12 58:17 85:5 88:12,14, 22 90:21 91:14 93:22 103:22 105:9 116:13 117:20 125:12 142:9, 11 148:4 149:12 156:24 169:14,19 175:3 176:23 179:11 193:17 200:16 210:21 213:16 214:19 238:8 240:17 245:19 254:20 274:17 282:4 286:2 288:19 326:21 330:17 365:2 366:23	partnership's 102:19 103:3 118:12
offhand 342:11	operational 143:25 147:17	oversight 257:15		party 17:10 100:19 101:18 102:20 103:4 321:4 366:22 368:17 385:8
office 279:21 280:3,5 294:4,10 323:13,14 326:15 388:22 389:2	operational-type 291:11	overspeak 115:16 252:3		pass 352:3 393:15
officer 14:12 23:6 26:25 27:6 28:24 29:2,7 32:14 35:10, 12,16 36:20,24 37:6, 18 38:3,5,10,16,22 39:3,24 51:22 52:6, 17 120:8 143:18 173:7,9,13,16,20,23 174:3 184:23,24 258:25 269:5,24 270:10,14 271:2 302:19 362:25	operations 202:8,15 203:14	owe 375:15		passing 78:8
officers 15:22 29:24 39:11 40:5,8,12 51:23 52:13 93:21 153:9	opinion 120:6,7,10 204:8 205:9 247:17	owed 125:8 160:10 161:8 178:18,23 185:6,16 186:9 199:12 204:12,25 205:13 212:18 275:13 297:17 308:20 310:17 358:21 380:3		past 190:16 226:7 359:9 375:21
offset 380:2,3 382:25 390:9,11,13	opinions 204:15	owing 50:3 211:11 212:10 223:6 234:23 285:18		patience 387:9
	opportunity 13:2	owned 15:6 16:7 17:24 42:8,16,24 43:3,13 273:17		Patrick 21:5
	oral 65:8,16	owner 272:24 281:25 282:3		pause 295:10
	order 13:3,7 105:11 128:16 129:6 288:21 360:9			pay 65:7 122:4 144:22 161:18 181:15 205:10,19 209:3 234:22 282:8, 16 302:23 318:14 327:13 332:6,13 344:19 355:18 356:2, 13 357:3,13 366:13 374:25 393:23
	ordinary 226:9 229:22 293:18			payable 171:12 174:15 190:6 202:18, 22 220:5 222:2,17 327:21 329:17 330:10,12,20 331:4
	organizational 112:13			
	orient 365:24			
	original 223:25 232:11 274:24 277:14			

333:7 334:14 payee 140:21 142:25 216:22 paying 288:14,16 326:23 333:9 338:17 346:21 355:4,8 357:4 payment 56:5,21 57:4,6,12,18,25 58:6, 10,12 59:14,16,20,22 60:3,4,9,11 62:17,25 63:9,15 64:4,9,22 121:11,17,21 122:7, 19,23 162:13,16,17 163:4,6,10,14 164:24 182:16 199:6,11 212:18 331:20 332:24 334:9 335:9 336:12 337:3,25 338:24 339:12,14 340:2,7 342:9 343:4, 20 344:20,24 345:4, 11,17 346:13 348:5 350:7,9,20,23 351:6, 7,14,20,23 356:6,17 358:25 359:2,6,7,15 360:16,22,24 361:18 362:2,5,7,9,12,15,18, 21 363:3,7,10,15,20 364:3,7,25 365:5,9, 14 366:21 379:15 381:23 382:2,9,14,15 383:19 390:6,8,21 391:10,13,20,24 392:6 payments 55:16,24 56:8,14 57:2,9 64:14 162:10,24 163:16,21 165:10 167:14 217:15 282:22 288:11,12 328:4 329:16 330:3,4,6,8 334:23 335:3,19,21, 22 336:23 337:9,15, 21 355:19 356:8 357:2,10,13 358:7,21 359:9,10,20,25 360:6,10,15 361:7,23 362:4 365:14,16 377:12,17,22 378:8, 9,17,24 379:7 380:23 381:3,6,11,18 382:6 383:4,5,23 384:2,4,6, 7 387:24 388:14 390:20 391:3 392:12	393:23 394:7,18 PDF 293:22 Pearl 3:15 pen 296:22,25 pending 7:21 16:16 people 33:7,11 34:4 89:3 146:4 170:24 237:5 275:9,20,21 279:23 291:21 293:7 294:3 319:16 351:12 372:19 percent 18:2,4 86:15 108:23 109:19 110:8 260:12 percentage 110:19 percentages 86:16 perfect 90:17 118:5 130:19 189:4 197:19 268:19 298:8 perfectly 144:3 223:2 348:18 performed 48:5 246:11 performing 114:7 219:4 period 25:12 39:9,14 40:24 90:15 93:14 95:15 105:18 120:9 135:21 169:5 203:20 218:21 219:6,16 221:15 226:18 231:15 242:17 243:13 247:22 265:2 321:22 380:15,16 periodic 228:13 241:17 288:12 358:6 periodically 337:14 persist 157:9 person 26:2,4 43:7 44:21 57:7 79:9 86:21 87:6,7 114:2,4 116:14 155:16 167:20 191:18 259:22 291:21 292:22 personal 79:22 80:10 97:15 375:11	personally 62:20 64:3 85:23 89:11 95:4 97:9 101:22 237:4 255:20,24 275:15 296:21 303:23 304:18,22 306:12 317:21 370:11 personnel 237:16 318:12 333:22 359:18,21 360:13,23 363:3 pertaining 65:17 petition 21:9 70:11 84:11 235:10,14 241:20 263:20 310:15 386:5 phone 68:6 70:3 290:25 392:23 393:2, 5,8,9 phonetic 249:21 phrase 41:10 229:19 physically 191:16 294:4 296:12,16 299:17,21 pick 101:6 picked 101:10,12 piece 203:11 pile 139:23 place 58:24 59:6 112:16 122:18 166:2 260:7 272:13 278:16 297:14,16 326:4,10, 12 393:3 plaintiff 9:7 plan 335:24 337:20 366:5 367:6 386:9,18 play 85:23 153:11 168:16 184:2 340:9 played 86:3,6,17 335:2 playing 239:9 pleading 213:22 pleased 347:12,16, 17	plural 314:3 point 78:9 87:2,6,7 114:2,4 157:16 166:9 190:16 254:11 255:3, 7 261:6 313:7,20 321:13 326:6 337:12 344:9 375:23 376:11 380:22 pointing 254:23 points 282:9,10 policy 378:6,10 386:2 poor 207:22 poorly 104:10 portfolio 274:5 portion 13:2,6 16:5 17:22 19:13,16,19 112:23 portions 12:10 position 37:9 122:3 184:14 193:3,6,9 274:15 280:11 361:14 positions 38:24 172:25 173:5 183:6 184:10,18 192:16 possession 45:25 113:9 132:11 possibilities 29:19 371:23 possibly 213:7 314:12 post 92:12 184:13, 14,18 192:15,24 193:7,8 275:24 pot 366:5 367:6 386:9,18 potential 250:20 357:4 366:3,19 369:16 371:7,9 potentially 113:5 249:6 250:12,13,14, 16,21 354:8 Poydras 4:13 practice 7:8 64:13 89:20,24,25 90:4	91:11 97:7 98:7,12 106:14 146:9,24 150:13 230:25 231:2, 3,22,24 233:5 299:4, 5 337:4 356:13 369:2,7 371:6,15 374:15 377:21 pre-petition 226:18 precisely 205:21 298:16 prefix 268:15 premarked 91:19 104:23 197:15 216:5 236:16 preparation 137:21 230:11 259:9 prepare 123:17 204:23 226:9 229:6, 21 235:19 236:25 237:3,5,13 241:11 255:24 377:22 378:16 prepared 227:5,20, 24 228:15 229:2,4,9 230:3 232:20 237:8 239:17 241:25 242:3 255:20 284:19 317:14 319:5 373:2 376:18 preparer 256:4 259:4,5,23 preparing 137:10 164:9 232:5,7 241:12,15,16 254:9 264:10 prerogative 253:7 present 4:23 90:23 180:15 191:19 283:14 presentations 368:7,16,18 presented 86:10 113:14 117:10 161:11 296:11,16 presents 12:20 president 14:16 271:23 272:24
---	--	---	--	--

<p>presume 207:13</p> <p>pretty 105:15 364:23</p> <p>prevented 231:6</p> <p>previously 18:9 24:4 80:13 225:22 246:8 373:19 374:18,25</p> <p>Pricewaterhouseco opers 84:9,13,16,20 106:7 113:23 132:5 137:2 141:24 142:3 149:3 150:9,12,16 211:10 212:9 242:21 263:3 274:10</p> <p>primarily 267:18,20</p> <p>principal 35:10,11, 15 36:20,24 37:5,18 38:3,4,9,13,16,21 39:3 49:11 50:3,23 55:17,25 56:22 57:18,25 59:14,17 60:12 62:18 63:2,9 64:5,14,22 119:7,10, 22 142:4 144:5 161:8,19 162:6 163:11,22 164:24 165:11 167:10 168:5 217:16,19 220:23 222:11 223:6,18,25 334:9</p> <p>principals 274:6</p> <p>principles 241:14</p> <p>prior 20:14 26:12 37:10,18 54:21 56:18 57:13 62:4,10 63:23 74:14 84:10 87:17 99:16,24 121:13 131:5 138:17 144:24 163:15 164:25 165:9 189:13 193:23 199:6 206:15 212:19 217:20 227:15 243:23,24 267:12 300:13,20 301:17 331:12 333:4 334:23 335:3,7 336:11,20 337:11 339:10 346:9 370:18 381:3,7 386:4,19,22</p> <p>private 273:19,21</p> <p>privilege 151:14</p>	<p>privileged 66:18 74:2</p> <p>probe 82:7</p> <p>problem 8:3 214:14 260:18</p> <p>procedure 271:17 291:12</p> <p>procedures 7:20 114:8 207:21 378:5</p> <p>Proceed 267:22</p> <p>proceeding 197:18</p> <p>process 52:23 55:23 56:4,5 58:18 90:21, 25 91:14 116:13 131:24 137:9,11 145:10,11 148:25 156:21,24 168:14,17, 25 169:6,9,15,17,19 170:5,9,14 176:23 179:11,20 189:2 200:16 210:21 218:6, 7,23 237:10 245:19 272:14,19 274:21 292:6 324:13 366:11 373:12</p> <p>processes 207:21</p> <p>processing 286:13</p> <p>produce 178:12 195:8 210:14 235:24</p> <p>produced 132:10 183:11 228:12,13 266:20 267:7,15,19</p> <p>producing 241:20</p> <p>professional 21:12, 15,20,22 22:15 356:21</p> <p>proficiency 22:11</p> <p>project 292:25</p> <p>projections 335:18 337:17</p> <p>promise 346:6</p> <p>promissory 6:10 45:14,21 46:2 48:15, 22 49:6,12,20 50:15, 18,22 51:7 54:3 55:7 56:6,9 60:5,13 67:3 75:25 78:17 82:15,20</p>	<p>83:6,10,13 107:20 108:2 109:5 119:22 131:12 132:6,10,14 133:13 138:10 139:5, 10,17,21 140:14 142:9,17 144:5,12, 16,22 146:7 158:5, 13,19,24 159:5,10,23 160:16 161:10 178:14 179:14 209:2 210:8 216:16 217:13, 23 233:8,22 234:10, 15 235:8,21 240:20 241:6 243:6 244:4 282:14 284:19 285:15,17 288:21 289:10,16,18,21 290:7,12 291:5 293:13 297:4,5,11, 17,21 299:11 300:13 306:10 307:12 310:16 315:20,22 317:16,21 319:5,9 322:20 338:2,17 339:4 340:10 344:25 369:20</p> <p>prompted 81:7 342:2</p> <p>proof 167:8,13</p> <p>proper 100:11 229:18</p> <p>properties 146:15 238:8</p> <p>property 375:11</p> <p>proposal 125:13 281:7 282:4,6 386:24</p> <p>proposals 367:22</p> <p>proposed 136:18 178:5</p> <p>proposing 366:19</p> <p>prosecution 208:23</p> <p>provide 15:4 28:24 174:22 175:7 267:12 295:20 299:8 311:17 333:22 353:8,14 354:3 357:19 358:5, 9,12,13 378:22 387:3</p> <p>provided 32:20 112:8,9,17 114:18 127:12 142:8 146:15</p>	<p>175:3 176:22 179:19 182:23 194:25 200:18 274:25 311:24 312:4,10 327:20 332:9 335:14 351:2 353:7 354:6,19 355:7,13 357:21,25 358:4,11,15 367:11</p> <p>providing 88:11 219:21 278:17 279:6 280:14 309:21 326:14</p> <p>provision 103:17 132:15</p> <p>provisions 105:7</p> <p>prudent 302:20 303:5</p> <p>public 21:17</p> <p>publicly-traded 281:16</p> <p>pull 200:10 215:6 297:20 302:7 305:2 307:18 308:25 313:9 317:2 328:10 334:4 338:11,20 341:12</p> <p>purely 240:22</p> <p>purporting 228:7</p> <p>purpose 16:23 17:2 36:6 53:17 112:2 126:7 232:5,7,11 294:15</p> <p>purposes 16:11 33:22 85:8 92:21 93:4 101:18 128:13 129:3 197:12</p> <p>pursuant 15:8 122:6 148:25 199:10,18 200:13 256:6 275:13 278:16 279:5 280:13 281:6 288:17 290:19, 24 326:13</p> <p>put 12:23 36:9 61:24 71:11 81:10 89:25 91:18 104:22 105:2,5 122:2 124:18 135:5, 16 139:22 151:19 170:17 177:8,10,13 197:7 207:2,5,14 215:21 218:11,18</p>	<p>226:22 235:15 236:15 240:4 257:10 258:16 259:10,12 266:18 281:7 292:23 326:9 345:22 368:3, 16 377:10 389:8</p> <p>putting 144:19 197:11 240:23 265:5 273:21 306:19 316:2 330:2</p> <p>Pwc 84:14 92:25 93:5 94:2 96:17,25 97:10 102:4 103:2,21 104:3 114:6 142:8 200:19 211:2 262:14 263:24, 25</p> <p>Pwc's 85:24 86:23 97:6 105:22</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualified 194:11 206:19</p> <p>qualify 101:18 136:14</p> <p>quantify 276:22</p> <p>question 11:22 12:3 13:4,8 17:17 22:17 26:13 35:4 38:8 40:15 45:11,22 46:19,20 48:19 51:4 68:20,21 93:12 96:4 99:19 104:11 114:14 132:4 139:14 144:15 146:18 148:13 150:7 154:4,17 155:24 156:9 157:20 158:8 164:22 171:10 174:13 175:19,23 176:18,20 178:18,24 179:3 185:9 188:18 192:21 194:18 195:11,14,24 209:6, 10 210:20 212:23 213:2 223:13 224:6 226:2 229:5 236:5 243:9 248:7,9 251:24,25 253:4 262:23 269:8,19 270:16,23 271:9,19 272:3,10,18 273:8 277:23,25 278:20</p>
--	--	--	--	--

279:9 280:16,24 283:20 284:8,15 285:8 286:10 287:3, 10,19,25 288:3,9 289:2,13 290:10,22 291:24 292:20 293:16,24 296:14 297:7,9 298:23 300:16 302:3,18 303:3,11,21 304:4,7, 13,16,17 305:7 306:16,25 307:14 310:3,12,20,25 311:13,20 312:8,17 314:15,18 315:10,24 316:24 317:18 318:7, 18,24 319:24 320:7, 19 322:6,24 326:25 327:7,25 330:22 331:6 333:11,19 334:11 335:5 336:17, 18 338:4 339:17,21 340:19 341:3 342:22 345:13,20 346:7,23 347:20 351:16 353:12,16 354:5 355:6,10,16,22 356:4,15 357:7,16,23 358:17,23 359:5,12 360:4,12 361:2 363:17,23 364:11 365:7 366:16 367:2, 17 368:2 369:5,9,18 370:4 371:2,11 372:2,23 373:5,21 374:12 375:4 376:21 388:20 389:6,16 391:5 393:25 394:20	quicker 324:14 quickly 139:21 Quinn 4:19 10:4 quo 248:18 quote 118:11 189:6 <hr/> R <hr/> ran 88:2 range 287:22 289:22 rarely 320:13 ratification 319:21 reached 66:4,9 69:3 76:3 79:2,9 342:11 343:8 reaching 350:12 reacted 347:23 reaction 389:24 read 101:21,25 102:12 172:8 198:10 208:21 209:6,7 301:20,22 316:4 reading 120:11 138:7 Real 31:11,17 realtime 265:16 reason 81:13 85:2 96:6 101:11 109:4 114:23 116:25 117:16 127:2 141:21 150:3 159:14 160:15, 23 161:3 205:21 235:3,5 238:5 247:9, 24 248:25 256:11,13 286:2 301:4 318:16, 21 346:18 361:4,10 364:6 reasonable 108:17 333:15 337:23 reasons 161:13 recalculate 275:8 recall 15:3 18:13,18, 20,22 19:17,20 20:8, 10,21,22 23:4,12,20 24:23 25:16 27:16	29:13,17 30:17,18 32:16 36:22,23 37:7, 12,22,23,25 38:19 39:8,20 40:2 49:19, 22,25 50:2,8,9 52:9, 21 53:8,15,16 57:22 59:2,3,11,20 60:18 61:25 62:6,17,23 63:6 65:2 67:19 68:2, 3,7,8,11 69:17,20,21, 25 70:5 71:6,21,22, 23 78:5 79:15 80:17, 18,21 89:14,19 90:13 91:5,6,9,13 95:2,9, 13,17,21 96:13 99:5, 6,8,9,12 100:20 102:6 112:21,22 113:15 114:3,15,21 115:8,14,17,18 116:15,18,19,23 119:15 122:17 123:5 124:7,10,12 126:5,9, 16,20,25 127:2,5,8, 21 131:25 132:13,17, 19 134:10,18 135:3 136:4,5 138:21,25 139:7,19 141:6,8,11 144:12 145:3,4,16, 20,22 148:16,17,20, 22 150:11 155:4 158:16,21 159:2,7,12 160:7,13 165:4,5,13, 17,20,24 166:13,16, 18,20,21,25 167:6 168:24 169:16 171:18,21 173:7,8,21 178:5 179:6,24 180:6,14,18,19,20 183:16,20 188:19 189:3,21 190:22,24 191:6,10,12,19,24 192:10,19 194:16 196:19 200:9,11 201:23 202:2 209:17, 20,23 210:3,9,18,25 211:19 212:3,14 217:18,20 219:5,9 220:21 223:10 225:13,18,20 228:25 233:10,20,25 234:8, 9,12,14,20,24 235:6, 12,18 236:11 237:22, 25 241:9 242:5,10 243:10 244:22 245:14,18 246:20,21 247:2,6 248:15,19	249:13 250:24 251:13,18,20 252:13 255:5,15,17 259:8 262:4 265:21,22 268:24 269:3 270:11 276:4,6,23 277:2,3,7 280:11,17,25 282:14, 24 283:8,11,13,15 284:6,11,20,22 289:6,21 290:2,3 291:3,6 292:9 293:17 296:18 298:24 299:16,18,21,22,24 300:17,24 301:3,12, 15,18,25 303:15,22 313:12 314:24,25 315:25 316:8 318:9 319:10,11,13,25 320:10 321:13,16,18 322:17,25 323:22,23 324:3 331:19 334:4, 18,21 339:9,18 340:8,12,15,16,23 341:4,5,8,11 342:2, 19 343:14 345:21,25 350:10,12 351:17,24 361:3,14,17,20,21 362:3 364:5,7 365:9 369:7,22 370:10 380:8,14,16,21 383:10,21 384:2 387:6 388:7 389:10 390:7,18 392:20 394:2 receipt 380:20 receivable 118:12, 14 238:21,25 239:11, 18 240:10 243:18 245:24 246:6,15,22 247:10 249:2 250:9 251:8,16 receive 11:6 22:10 141:17 303:23 304:18 305:23 332:11 received 42:9,17 43:15 85:12 123:21 125:14 141:17 142:3 212:16 293:20,21 304:10 305:25 383:7 receives 179:16 recent 367:9	recess 36:16 73:6 150:25 224:24 266:6 325:8 349:7 372:15 reckoning 310:22 recognize 217:10 320:13 recollection 24:25 29:14 39:22 40:6 67:21 71:5 105:12 115:12 124:19 126:22 127:23 128:10,22,25 131:16 166:15 173:22 180:7 183:19 187:24 192:20 221:5 223:23 225:6 227:10 228:14 229:7 246:3 251:6 252:19 253:9 269:4 270:8 275:22 282:21 283:7 290:5,18 309:18 344:11 367:14 369:15 record 7:10 10:17 36:3,15,18 73:5,8 150:24 151:3 209:7 224:23 225:2 266:5, 8,18 267:9 301:22 302:6 320:15 325:7, 10 349:3,6,9 372:14, 17 392:25 395:9 recorded 8:10 225:7, 15,22 recording 7:16 100:11 records 50:19 225:8, 15 227:13 235:17 237:15 240:12,14 257:21 258:5 286:23 300:2,4 306:5 312:22 393:10 recover 167:9 168:3 181:22 182:3 redacting 312:23 313:6 redeem 281:12 redeemed 276:13 redeeming 281:20 refer 13:13 18:6 21:9 22:24 27:12 30:4
--	--	---	---	---

31:14 32:7,17,24 33:19 44:2,10 54:10, 24 68:24 79:17 84:13 95:11 175:2 186:24 203:6 279:24 329:3	relates 76:14 113:6, 18 130:11 211:24	293:12 296:9 299:12 300:10,12 302:16 309:11 313:22 316:3 317:5 319:4,7 320:2, 5 323:7 324:4,8 326:6 333:25 339:8 340:21 342:14 344:15,18 345:25 346:3,4 351:11 357:17 361:18 364:9, 12,14 365:10,25 377:14 387:25 389:17,18 390:22,23 392:4,22	117:2 119:19 131:5, 11 133:12 134:7 135:6 137:5,7,10,12, 25 138:3,4,9,13,19 166:8,11 178:13 219:13,15 226:19 227:4 228:7 229:2,4 232:12 256:15 257:4 258:20,24 259:5,23	requests 85:18 373:3 387:18
reference 92:17 103:12 200:12 202:6 222:3,10 223:9 238:20,24 260:21	relating 131:2 138:19	remembering 289:17	reported 19:7,10,17, 21,25 20:23 21:2 119:17 120:23 226:10 240:15 258:14	require 63:16
referenced 132:14 186:25	relation 27:21 30:10, 13 35:6 41:18 58:21 112:3 125:9 163:21 172:25 176:17 184:11,18 191:16 264:13 385:18	remind 72:19 77:17 391:23	reporter 7:12 8:24 10:10 209:6 268:8,18 301:20	required 56:9 94:5 96:17 97:19,20,21,25 98:3 127:18,20 340:2 390:5
referred 84:4 91:15 123:24 143:7 169:21 186:7,20 223:15 279:20 366:5	relationship 374:3	reminded 132:18	reporting 7:6 8:22, 25 20:9,13,17,23 21:4 87:22 91:2 114:17 230:12 231:14 232:6,19	requires 96:25
referring 33:16 50:17 75:24 76:6 118:8 163:5 187:11 199:25 223:11 226:15 281:5 314:2 316:3	relationships 100:13 102:20,21 103:4	reminders 378:22	reports 89:22 113:18 115:2 143:8 171:5 196:22 226:14,16 229:6 255:18 256:20 257:19 259:9,13,14	reserve 245:2,6 260:24 261:4,8
refers 170:4	relative 192:16	remote 7:16 371:24	represent 9:25 10:4, 22 133:4 267:23	reserved 244:22 245:13,16
reflected 13:14 75:5 175:16 181:15 235:4 240:9	relayed 188:8 206:4 342:12	remotely 7:11,14 8:18 12:20 299:6,9	representation 5:17 91:16 94:21 95:5,16 96:9,18,22 97:2,8,13, 19,25 98:9 99:2 103:7,17,23 104:8 106:11,15 130:8,9 135:25 136:6,14 214:23 215:9 262:16, 22,25 295:17	reserving 46:17
refresh 24:24 105:12 131:15 192:20 221:4 223:22 227:10 367:13	relaying 206:3 207:24 344:18	rendered 204:5 233:23	representations 92:21 98:19,24 136:16,23,24 262:24	reside 257:21
refuse 74:9,10 209:2	release 329:6 330:8	renew 196:25	representing 9:11, 14,17,21	resolution 383:16
regard 133:5	relevant 88:13 208:15	renewal 168:10,14, 16,25 169:6 170:5,9	represents 310:10	resolved 374:18 383:3,6,15
regret 81:10	reliable 113:2	reorganized 3:4 9:5	reproducing 171:6	resolving 366:4
regularly 355:18	relied 305:13	repa 95:11 136:17	request 87:4 103:25 172:8 196:25 291:15 379:7	respect 27:18 34:13, 18,23 35:2 37:4 39:7 56:15 112:17 134:17 182:7 212:5 261:8,16 273:12 333:8 335:9 339:12 340:6 365:22 383:18 385:17 393:21
reimburse 145:15	rely 85:14,18 96:3 237:12 331:2 337:23	repaid 57:4	requested 196:21 362:18 363:7	respond 174:25
reimbursement 279:17 325:19,23 379:20 388:16	relying 85:20	renew 196:25		responded 174:8 182:22
relate 130:6	remained 202:18,23 203:8	report 5:25 14:13,21 19:12 26:21 88:2,6, 16 89:12 98:18 105:8 106:4,8,16 110:25 111:21 112:7,12,25 115:20 116:5,17,21		responding 210:11
related 59:23 60:4 90:25 100:13,19,22 101:6,18,23 102:19, 20 103:3,4 105:7 131:17 138:5,10 145:9 167:14 208:25 280:22 281:3 284:2 366:22 368:17 376:13	remaining 119:10 223:25			responds 176:3
	remember 59:8 70:9 71:2,3 80:22,23,24 87:23 95:19 102:9 122:25 123:2,19 124:16,24 127:6,14 128:6,7 129:11 131:19 147:15 162:22,24 163:4 165:6 166:3,7 172:17 174:4 187:13,19,21 188:15 189:18 194:7, 15,24 195:4 200:6,15 234:4 236:12 250:3 253:13,14,23 254:15, 17 274:12 277:16 282:17 284:12,17,23 286:3,22 291:21			response 8:5 83:24 174:8,13 176:4 178:6,18 182:20,24 185:5 189:6 190:8 194:17,18 195:9,13 205:6 210:20 267:22 350:11
				responses 81:4 184:3
				responsibilities 25:18,23 28:10 31:2, 4 38:21 219:20
				responsibility 26:6, 10 88:5,9 115:23 116:2,3 258:11

287:16	15	rules 7:19,20 11:17	SEC 274:13,16,19 275:18 384:19,22 385:7	served 11:7 18:10 19:13 32:25 39:9,14 40:9,24 46:6 47:16 49:16 51:9,14,19 84:9 90:15 94:22 95:6 137:2 155:6 172:19 227:6 229:23 248:24 255:6
responsible 56:13, 17 86:22 89:8,9 115:19,22 116:4 146:6 230:10 258:4,7 384:19,23 385:8,13	reviewed 231:13 232:13 233:3 294:21 295:5,18 322:11 334:14,20	run 46:24 188:6 329:17	secret 338:8	service 133:2
responsive 175:23 176:17,25 185:8	reviewing 198:12 233:2 237:22,25	running 45:4 254:19 256:25	secretary 172:20	services 15:5 28:25 30:2 32:21 33:25 42:22 59:23 128:21 129:9 171:15 185:6, 23 186:8,10 219:22 278:17,23 279:7,12, 21,24 280:3,5,6,13 325:20,23 326:2,15, 19,22 327:19 330:17 335:15 336:20 351:4 353:6,9,13,21 354:2, 7,8,18,23,25 355:2,7, 12 357:20 358:2,4,6, 11,14 379:19 380:11 388:15 390:20,21
restate 75:17	right-hand 198:6	S	section 41:8 101:5, 19,22,25 110:24 111:17,20 112:7 113:12,17 115:2 116:5,17,21,25 117:17 130:3,15 131:3 134:7,22 138:4 170:10 175:14 192:6 215:16 220:5 294:20	serves 133:2
restrictions 8:19	rights 340:6	satisfied 89:21	sections 143:9 192:7	service 185:10
restroom 324:22,25	ring 277:13	satisfy 89:12 122:8, 14 124:3 208:7	seek 12:9 199:6	services 15:5 28:25 30:2 32:21 33:25 42:22 59:23 128:21 129:9 171:15 185:6, 23 186:8,10 219:22 278:17,23 279:7,12, 21,24 280:3,5,6,13 325:20,23 326:2,15, 19,22 327:19 330:17 335:15 336:20 351:4 353:6,9,13,21 354:2, 7,8,18,23,25 355:2,7, 12 357:20 358:2,4,6, 11,14 379:19 380:11 388:15 390:20,21
result 276:8 347:6	rise 287:22	Sauter 162:20,21 163:20 164:7,8,24 166:20,24 167:4 168:4	seeking 332:16	settling 247:23
results 5:22 226:11 227:2,5,19 228:7	role 14:14 31:5 85:23 86:4,5,17 168:16 184:2,8 335:2,7 340:9 370:13	scenario 264:4	Seery 71:23 72:2 166:9 233:20 234:11, 17,21 235:2,8,20,25 236:6 322:15 323:4, 16,19,24 324:8,16 340:12 346:10 348:2 350:8,13 368:8,10,14 375:7 379:25 392:18	set 89:24 92:25 93:5 112:6 256:21 315:6,7 378:16,21
retail 32:21,24 33:2, 4,8,12,14,15,18,22, 23 34:5,8,13,18,23 35:2,6,12,14 36:21 37:17 38:2,5,10,17, 22 39:4,7 160:8 168:10,18 169:20 170:12 171:19 172:25 173:5,10,13, 16,20,23 174:13 175:15,23 176:18,22 178:7,13,17,23 179:3,8,12,15,19,25 180:8,22 181:2,8,14, 19,21 182:2,6,11,15 184:4,11 185:14 189:14,19 190:4,14, 18,20 191:2 192:16, 24 193:3,4,6,11,15, 18 194:11,17 204:18, 23 205:6,22,23 206:13 209:16,19,21, 24 210:5,11,20,22 385:12	roll-up 126:17	scheduled 336:9,11 356:8	sell 118:23 282:2	settlement 348:8 386:24 387:4
rolled 126:11	Rome 170:24	schedules 129:10 308:25 311:15 317:11	send 13:20 342:3 377:11	seven-month 265:2
room 7:9,13 9:10 105:3,5	roughly 120:14	scheduling 355:13	sends 174:5	severity 7:7
rope 88:24	Rukavina 3:20 5:7, 10 9:19 42:19 44:17 45:3,8,16 46:10 47:20 48:3,16,25 49:13 55:20 107:4 126:3 133:23 142:6 143:15 163:25 195:7 212:24 213:24 266:11,14,15,22 267:6,17 268:8,19 269:16 297:19 298:6, 8 301:23 302:5 303:13 304:5,9,15 305:2 306:6 307:16 308:7,10,24 309:5,14 311:21 313:8 317:2 325:2 329:12 331:8 332:21 338:11,20 339:21 341:12,15 343:11 345:22 349:4 352:3,13 377:10 380:25 387:12,20 393:15	school 22:5	senior 232:13,15 275:20 318:12	shades 36:13
rule 7:19 267:8 356:11		scope 136:18	sense 57:5 88:19	share 209:18 262:14
		Scratch 7:4 8:21 14:20	sentence 98:14,15, 20 118:20 120:13 121:7,10,18 130:7 133:17 138:19,23 139:6,11 187:9 189:6 199:5 203:18 211:24 212:5	shared 59:23 185:6, 10,22 186:7,10 209:16 278:23 279:24 325:19,23 326:2 351:4 353:21 379:19 380:11 388:15 390:20,21
		scroll 106:18 117:22 130:14 136:9 140:23 152:16 170:25 171:24 174:7,18 176:2 182:21 201:11 202:3 217:3,5,8 238:17 297:25 331:10 332:22 341:16 343:12	sentences 314:6	shareholders 125:13 278:5 281:8, 12,18 282:5 293:4
			separate 54:24	shares 276:15 281:20,22 282:2
			September 169:7	Sharp 249:21
			series 11:20 328:14	
			serve 19:3 24:15,21 29:2 32:14 33:7,12 34:4 35:11,15 37:17 38:25 39:2	

sheet 106:19 107:25 108:11 109:6 110:4,5 111:11 112:4 120:23 175:2,14 179:17 220:2 222:21 228:22 229:3,8,16 230:5 243:7 251:14 253:22 294:12,24 370:22 372:6 sheets 107:14,22 175:8 short 266:2 279:16 332:7 short-terms 331:22 shortfalls 335:22,24 show 126:20 189:25 226:20 257:2 showed 119:2 370:8 shown 322:8 shows 293:9 sign 50:14 91:15 94:20 95:16,22 96:8, 18 97:2 106:14 135:24 136:6,22,25 139:4 141:4,21 143:14,23 144:11 150:4 153:24 154:5, 10,18,22 155:3 158:4,13,18 159:4, 15,23 160:16,25 181:3 213:16 289:9, 11,16 293:25 306:17 320:14 signature 92:3,7 105:22 106:9 130:7 136:20 140:25 141:2, 7 143:4,21 144:20 152:20,21 217:9,11 256:3,15 262:21 294:5,12 298:14 299:2,19 305:6 320:22 321:3 signatures 298:3,10 299:8,20 signed 46:2 55:7,12 92:5 94:25 95:2,4,11 96:22 98:10,23,25 99:4,7,10,16,25 103:18 106:7,16 107:2 123:4 132:13	137:6 139:10,16 141:10,15 143:24 144:4,13,15,21 148:15 153:14 158:23 159:9 161:5, 20 180:24 181:16,23 182:8,16 201:12,14 213:7,9 256:2,4,8,12 257:5,15 258:24 262:15,20 289:23 293:25 296:20,21 298:4,21 299:13 301:16 305:16,20 306:10,22 315:2 316:14 319:19 320:16 signer 103:7 363:2 signers 152:11 159:20 significant 228:21 229:3,7 230:4 signing 141:6 152:23 156:23 296:9 299:17, 22,23 319:21 similar 135:25 218:7, 9 272:3,19 311:9 325:17 331:11 338:14 353:8 357:20 370:5,6,17 simple 156:8 simply 188:23 361:5 single 62:13,24 89:15 93:9 95:9 129:11 singular 314:3 sir 13:23 21:13 22:17 43:9 68:17 69:14 80:11 115:12 130:17 140:3 141:2 144:4 146:18 151:23 154:18 156:8,20 158:2 167:23 209:12 218:18 266:15 278:8 301:25 302:12 304:4 307:22 317:14 328:18 331:15 332:20,25 333:6 334:17 336:19 341:20 351:25 sit 102:13 114:24	116:24 138:22 141:12 159:13 231:20 sitting 149:24 270:7 284:22 310:8 314:19 320:3 348:16 351:10 382:23 392:3 size 271:21 309:25 skip 55:13 Skyview 14:5,7,9,17, 24 15:4,14,19 16:6, 14 24:4 28:20,22 377:2 Skyview's 16:6 17:22 smaller 288:12 smart-ass 306:9 social 7:8 sold 276:15 solely 132:3 208:25 someplace 278:13 sort 142:13 208:15, 16 sorts 288:11 source 80:18 257:17 speak 62:13 63:25 72:20 73:9,14 74:15, 19 94:24 103:6 151:4 233:12 284:10 speaking 95:8 179:24 specialist 8:21 specialized 94:16 specific 25:22 40:19, 23 97:7 120:19 124:8 198:15 199:3 224:16 235:12,18 253:15 323:8 specifically 29:13 40:21 57:22 59:2,11 68:10 70:9 71:21 85:17 87:10 117:24 121:19 124:16 126:5 128:6 131:25 141:6, 11 145:5 146:3 162:23 180:6 187:19	192:10 194:8,25 196:20 233:11 234:2, 5,13 247:6 248:20 249:13 250:24 251:18 252:13 253:13 255:5,16 277:2 292:9 296:9 297:5 298:25 299:16 313:22 314:24 321:16,19 334:2 339:8 340:22 357:17 389:19 391:9 specificity 163:18 239:9 390:19 specifics 345:15 speculate 20:5 188:21 301:5 speculation 142:7 speed 247:4 249:10, 22 313:5 spilled 169:17 spoke 62:14 74:5 151:7 188:9 249:20 350:16,17,18 spreadsheets 368:19 spring 125:17 201:21 280:10 stable 90:5 stack 197:4 staff 116:9 stamp 296:23 stand 328:24 stand-behind-you 88:25 standard 231:22 233:4 335:13 372:3 standards 256:21,24 Stang 3:8 9:5 10:20 72:10 166:19 stapled 197:22 214:12 stare 298:11 start 8:9 41:9 170:21 214:18 248:14	268:21 304:16 started 21:3 36:7 125:19 207:15 231:10 304:15 state 8:4 10:16 47:2 161:16 state's 7:20 stated 8:3 24:5 179:15 206:9 246:8 249:8 290:12 294:16 statement 114:18 118:24 120:19 121:5, 10 133:7,13 134:4 179:17 190:14 194:18 204:3 205:18 224:10 228:20 262:5 statements 5:19 6:3 41:7 48:2 84:17,23 85:3,13,19 88:11 90:3,7 93:25 95:14 100:12 102:8,11,12 104:22 105:18 112:2 113:7,14 122:12 130:23 133:22 134:2 135:20 142:12 176:24 179:23 180:15 201:8 211:7, 22 217:25 218:4,20, 24 219:6 221:15 222:24 235:17 241:24 242:3,15,17 254:10 260:3 261:20 264:11,13 286:19 301:11 306:5 370:9, 12,17 378:24 states 8:12 98:16 118:11 119:20 200:23 201:3,6 status 248:18 stay 248:19 363:9 387:10,16 step 347:3,4 steps 88:16 stick 20:7 sticking 203:5 277:13 Stinson 4:6 9:13,25 stipulate 7:15
---	--	--	--	--

stipulation 8:6	143:9 242:22 262:14 263:4 274:12 370:24	Susan 7:12 8:24	tax 280:7 354:22,25 358:11	terminated 326:5
Stock 281:16		sustained 17:14		termination 326:7,8, 9 380:21
stonewall 157:18	subsequently 244:22	swear 7:13 10:10	taxing 353:5	terms 33:21 65:23 66:2,6 69:22 75:8 76:2 78:25 79:23 80:11 83:16,20 319:8,12,14 336:7
stood 328:22	substance 72:22 73:15,19 74:6 151:5, 8 185:7 209:22	swearing 7:17	team 53:4 86:8,12 87:12,14,22 88:21,23 89:2,8 112:10,12 113:8,24 116:7 137:18,20 147:14,18, 19,24 148:2,4,5 149:7,11,14,15,24 150:19,20 188:4,6 200:17 219:3 237:7 255:25 257:8,12,17, 23,25 258:4,7,12 259:11 272:23 290:11,13,14,15 291:8,17 292:5 309:21 311:24 312:13 335:11 351:7 367:10 368:3	Terrestar 145:9 273:12,18,19 274:7 384:20 385:9,14,18
Stoops 276:2	substantively 12:15	Switching 321:25 324:20		testified 10:12 68:18 80:7 155:5 156:11 179:7 201:23 206:10, 18 211:14 253:2 256:24 259:10 261:10 269:23 270:2, 13 282:24 283:6 289:3 309:20 312:20 313:3 314:16 318:8 319:10 320:8 351:2 357:8 362:24 378:4, 20 379:3 380:12 388:17
stop 76:19,20,21,23 77:11,22 81:21,22 106:2 155:19,22 157:14 215:6 220:2	substitute 16:15	sworn 10:12 395:16		
stopped 231:16 294:3 381:3,6	succeeded 31:22 32:11	sync 296:6		
stopping 390:19	successor 32:8,15	system 330:9		
strategy 164:12	sued 182:2 375:6,14	<hr/> T <hr/>		
Street 3:15,23 4:13 8:23	suffered 276:7	Tab 328:11		
stressful 292:24	sufficient 122:3	taker 324:16		
strike 114:12 246:13 247:21 248:5,22 250:6 252:23 272:13 291:2 307:16 310:7 343:24 346:16 364:22 372:8 393:4	suggest 277:12	taking 81:12 110:14 120:12 176:7 208:16 226:17 239:23 240:23 323:19 348:24	teams 116:10 337:6 354:10	
string 5:21 172:3 183:22	suggesting 338:9	talk 89:2 157:16 164:15,20 233:19 279:2 293:7 325:13 350:16 387:17 388:23 395:4	tech 320:20	
structure 87:22 112:13	suggests 253:2	talked 100:3 113:4 130:8 151:11 162:14, 15 187:21,23 188:4,7 190:15 217:14 222:23 249:14 253:16 268:3 292:11 311:15 349:19 351:5 378:5 379:18 389:2 391:9 394:6	technologically 320:12	testifies 318:3,11
stuff 156:6 157:5 252:11 295:6	suing 373:16,24 374:5	talking 40:5 59:13,16 75:14 76:20,23 77:12,22 89:15 101:23 157:14 162:16 208:24 222:6, 8 231:19 259:25 264:19 323:6 341:23 350:13 351:11,13 352:16,17 354:18 368:18 379:25 383:14	telephone 191:15 290:19 342:23 344:12,14 392:22	testify 252:18
subevent 130:24	SULLIVAN 4:19	talks 58:19 100:11 350:6	telling 71:23 79:10 125:4 166:18 181:8, 14 182:14 207:24 246:21 251:4 253:9 285:5 287:8 317:5	testifying 252:22 302:14 387:22
subject 55:8 65:8 82:16,21 83:6,10,14 109:24,25 124:14 139:5,11 168:10 277:5	sum 250:4 335:20	task 291:14	tendered 45:2 55:18 57:19 58:3 60:13 63:3 64:6,15,23	testimony 16:11,19 20:7,15 29:5 72:22 289:17 301:13 318:5 370:19 387:25 391:11
subpoena 11:6 16:18 81:13	summaries 368:4		tenure 39:20 40:2 86:3 94:4 102:11 114:5 230:14,18 368:25 369:11	Texas 3:16,24 4:8 8:14
subpoenaed 352:21	summarize 273:14 279:12 280:4 296:8		term 28:19 33:13 41:17 44:16 45:14 51:17 53:13 54:2 58:14 69:8 71:20 75:23 79:8 99:16 170:8 173:2 186:21 315:14,15 333:14 362:14 364:3 369:16 383:19	Thanksgiving 329:20,22
subscribe 281:12	summarized 274:21		terminate 380:11	Thedford 171:4 172:3,11,24 173:5 174:20 176:3,16 178:6 182:23 186:20 192:5 198:19 210:10, 13 275:24
subscribed 276:14 395:16	summarizing 188:13			Thedford's 182:20
subscribing 281:19	summary 5:23 237:19,23 279:16			theme 324:21
subsequent 130:3, 10,21 131:2 133:8 134:19,22 138:5,9	Suntrust 4:17 10:6			thing 129:4 187:5 199:23 215:17 320:2 357:3
	Super 395:5			
	supplemental 218:20			
	supporting 311:15			
	supposed 315:14			
	Surgent 171:4 275:23			
	surprised 352:9 356:11 376:22 394:17			

things 61:14 85:6 89:5 136:19 142:13 147:17 153:10 162:15 248:16 249:12 254:24 257:10 259:14 261:23,24 263:18 264:3,17 265:14 279:22 280:8,9 288:14,16,17 292:22 295:21 329:4,24 333:21 352:12 354:11 356:25 357:10 371:16 373:11 374:25 376:24 thinking 22:18 324:11,12 Thomas 171:4 275:23 thought 37:14 40:11 54:20 127:9 188:25 235:8 252:2 263:23 304:12 363:13,21 thoughts 348:22 thousands 224:14 286:11,16 thread 118:4 threatening 374:22, 24 thumb 356:11 tickler 337:8 tie 222:25 ties 111:18 243:20 till 200:24 time 12:23 17:15 19:7,13,16,19 20:2 24:16,18,20,21 25:3, 12 37:18 38:25 39:10,15,18,23 40:8, 25 42:2 43:22,23 45:9,24 46:6 47:15 49:16 50:10 51:9,14, 19,25 55:15 56:8 58:19 60:22 61:10, 21,25 62:3 64:4 72:17 73:2,3 75:21 76:7 77:8 81:12 84:19 85:4,9 86:19, 24 87:3,8,17 93:7 99:16,24 100:6 101:3 113:16 114:16 116:16,20 120:9 122:5 124:4 127:16 135:24 136:15,16 137:12,22 138:15,18 139:4,9,16 141:10 148:19,21 154:21 158:11,18,23 159:4,9 160:8,24 162:4 163:10 164:25 166:12 168:24 169:2, 4,5 186:4 191:7 192:13 204:4,14 205:20 206:12 207:20 212:13,21 221:5 225:17,19 227:6 229:12,23 230:14,15 231:7,15, 16,23 232:21 233:4, 13,14,15 238:4 240:3,25 241:19 244:5,16 246:5 247:8 248:3,23 250:7 253:5 254:18 255:6 259:14 261:25 264:15 265:6, 9,24,25 266:2,25 269:14 270:8 273:17, 19,25 274:11 278:14 283:25 294:15 299:3 303:8 313:20 321:19, 22 322:13 323:4 331:25 337:20 339:7 343:23 352:2 353:25 357:3,5,12 358:19 363:25 365:12 366:2, 18 369:13,23 370:11 371:13 386:4,17 388:12,25 389:9 395:3 timeframe 169:8 timeline 40:20 timely 86:11 330:19 331:4 333:16 356:13, 24 357:14 times 11:11,13 25:7 62:12 90:17,18,19 207:17 249:8 250:2 252:2 298:15 320:8, 25 321:2 324:8 368:5 374:4 392:8,14,15 title 14:9,11,12 23:6,8 25:13 27:17 28:7,11, 17 34:12,22,25 35:5, 8 37:3,9,16 39:6 51:25 111:10 173:8 174:2 183:13,17 192:23 227:3,11 269:6 270:9,11 305:8 titled 237:19 titles 27:20 30:9,12 34:15,17 37:15,21, 22,23,25 today 11:2 13:20 23:22,23 24:7,13 28:4 30:23 31:11 51:17 73:15 81:11 93:12 102:14 116:24 118:8 141:12 162:14, 16 173:10 203:20 267:12,19 268:4,9 270:7 273:20 284:22, 23 286:4 291:22 310:8 314:19 317:15 320:3 370:8,18 392:3 told 47:8 58:18 60:11 67:19,21 69:21 78:3 81:6 116:19 132:5 138:23 139:3 145:18 154:10 162:17 163:20 165:8 174:4 180:22 181:2,19,21 182:6 189:14,19 190:20,25 191:8 203:9 204:18 205:22 211:5 234:20 246:9 248:17 250:13,16,20 251:7 254:4 257:16 282:5,16 283:16 287:5 318:4 375:24 385:7 386:7,17 391:12 392:5,11 tomorrow 395:4 tone 394:5,12 top 92:10 111:4,8 198:5 219:19 313:10 topic 114:19 234:3, 15 251:21 253:15 total 109:13 110:8 119:21 238:7 239:12 240:9 260:12 335:20 389:11 totaled 143:11 totaling 223:17 Totally 269:16 touching 264:5 track 337:9 364:15 trade 281:23 trades 273:25 274:8 trail 288:22 transactions 85:6,8, 14 100:13 102:21 103:5 148:6 224:15 285:21 286:5,12,13, 17 289:25 295:24 373:9 transfer 141:20 287:5 288:6 332:16 transferred 141:9 285:4,10 transfers 283:24 285:21 327:16 transmitted 340:25 transparency 295:20 transparent 313:4 375:10 treasurer 23:9,10, 16,22,23 24:2,3,6,8, 10,13,15,21 25:2,8, 14,18,23 26:19,22 27:4,22,23,25 28:3,5, 8,12,18,20 29:5,9,12, 15 30:14,15,16,20, 22,24 31:2,3,5 39:2 135:23 138:14 152:24 153:3,16,22 155:7,10,14,21 156:4,12 158:3,9,12 176:14 202:12 204:2 269:6,12,13 270:3,5, 9 272:4 305:8 327:4 336:4 treasury 335:15 336:25 351:3 354:7, 11,22 358:4 treatment 242:12 trick 348:7 trigger 369:24 triggered 274:16 true 74:18 89:22 186:4 204:4 269:11 277:13 333:6 350:21 trust 4:10 9:18 65:11 244:23 245:3,7 247:11 373:23 374:5 trusted 257:7 trustee 4:16 10:5 65:10 truth 252:18,20 truthfully 252:22 253:3 TSG 7:6 8:22,25 Tuesday 8:19 172:4 tunnel 293:3 turn 100:8 105:25 110:22 149:12 259:16 261:13 turning 197:12,16 turns 317:20 two-month 323:11 type 88:25 94:21 130:23,25 227:9 253:25 types 148:6 typical 103:25 106:17 371:5 typically 144:11 168:22 169:10 192:12 230:16 289:16 296:22 329:16 355:24,25 <hr/> U <hr/> Uh-huh 69:4 210:17 237:21 368:20 ultimately 125:6 178:17 274:22 387:6 unable 122:14 203:18 204:24 208:7 211:10 212:10
--

<p>unaware 64:24</p> <p>uncollectible 244:9, 17 245:25 246:7,17, 24 247:13,25 249:3 250:10,15 251:9,22 253:11 254:4 255:9, 15</p> <p>uncomfortable 90:14,20,24 91:9</p> <p>unconsolidated 110:2,18</p> <p>undergoing 207:20 241:16</p> <p>underlying 246:11 311:24 332:12</p> <p>understand 10:21, 25 12:6,9 13:24 17:3 31:10 41:13 45:22 53:22 55:9 68:20 74:4 75:22 76:5 78:24 79:16 98:22 99:18 104:2 127:7 133:9 153:15 158:7 176:20 203:12 222:9 225:25 267:25 268:17 273:3 288:2, 13 296:19 297:9 300:21 312:6 313:24 315:12 316:12 338:9, 25 353:24 364:16 374:7 376:10</p> <p>understanding 41:10,17 53:6 65:22, 25 66:5 84:25 85:11 96:25 97:11,16,18,24 100:18 103:20 104:3 111:15 118:16,19 146:25 152:4,6,7,9 153:14,21 156:3 170:3,8 173:4 175:19 184:17 195:15 242:19 256:19 259:22 270:19 277:25 311:9 326:3 372:19 373:23 374:4 375:17 379:24</p> <p>understood 69:2 155:6 203:10 382:22</p> <p>undo 374:17</p> <p>unfettered 372:21</p>	<p>unilateral 382:20</p> <p>unilaterally 270:20 271:4 272:5</p> <p>unique 12:21</p> <p>United 8:12</p> <p>unlike 12:18 353:20</p> <p>unpaid 119:10 161:8, 18</p> <p>untested 207:22</p> <p>upcoming 336:8,11 337:25 355:13</p> <p>updated 154:22</p> <p>upset 362:11 390:2</p> <p>urgent 356:23</p> <p>URQUHART 4:19</p> <p>USD 331:14</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>vacation 321:23 329:23</p> <p>vague 353:19</p> <p>valid 159:18 161:12, 16</p> <p>validity 7:16</p> <p>valuation 274:9,18, 24 280:7,13 292:5 354:15,22 384:20 385:9,14,19</p> <p>values 251:5 253:17 264:2 265:9 367:9 387:3</p> <p>varied 230:15</p> <p>varies 87:2,3 230:14</p> <p>vendor 288:17 356:7</p> <p>verify 97:22</p> <p>verifying 215:2</p> <p>versions 136:13 146:14</p> <p>versus 292:12</p> <p>video 7:16 8:10,17, 21 323:23 324:3</p>	<p>videotape 12:10</p> <p>view 204:24 205:11 292:14 301:8</p> <p>voice 268:6</p> <p>vote 282:5</p> <p>voted 125:13</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>wait 156:18 157:4,5, 22 249:17</p> <p>waiting 196:24</p> <p>walk 180:17</p> <p>walk-through 168:19</p> <p>walked 179:7 294:4</p> <p>walking 189:22</p> <p>wanted 89:8 104:3 129:4 271:15 342:9 343:3,7 345:10</p> <p>Warren 4:11 9:16</p> <p>Waterhouse 3:1 4:1 5:1,5 6:1 7:1 8:1,11 9:1,11 10:1,11,18,19 11:1 12:1,24 13:1,15 14:1 15:1 16:1,10 17:1,16 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1,19 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1,7,15 48:1 49:1 50:1 51:1,4 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1,19 73:1,9 74:1 75:1,3,22 76:1 77:1 78:1,14 79:1 80:1,25 81:1 82:1,4,14 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1,25 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1</p>	<p>100:1 101:1 102:1 103:1 104:1 105:1,9 106:1,6 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1,2 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1,23 147:1 148:1 149:1 150:1 151:1,4 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1,5 165:1 166:1 167:1 168:1 169:1 170:1,21 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1,25 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1,17 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1,5 198:1, 3 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1,15 210:1 211:1 212:1 213:1 214:1 215:1 216:1,15 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1,3 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1,25 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1,12 249:1 250:1 251:1 252:1 253:1,8 254:1 255:1 256:1 257:1 258:1 259:1 260:1 261:1 262:1 263:1 264:1 265:1 266:1,12</p>	<p>267:1,23 268:1,20 269:1,20 270:1 271:1,5 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1,12 294:1 295:1 296:1 297:1, 22,24 298:1,7,19 299:1,11 300:1 301:1 302:1,10,19 303:1 304:1 305:1,5,9 306:1,8 307:1 308:1 309:1,8 310:1 311:1 312:1,9 313:1 314:1 315:1,18 316:1 317:1,4 318:1 319:1 320:1 321:1 322:1 323:1 324:1,15 325:1,11 326:1 327:1 328:1,15 329:1 330:1 331:1 332:1 333:1 334:1 335:1 336:1 337:1 338:1 339:1,22 340:1 341:1 342:1 343:1 344:1 345:1 346:1 347:1 348:1 349:1,15 350:1,5 351:1 352:1,23 353:1 354:1 355:1 356:1 357:1 358:1 359:1 360:1 361:1 362:1 363:1 364:1,24 365:1 366:1 367:1 368:1 369:1 370:1 371:1 372:1,18 373:1 374:1 375:1 376:1 377:1,9 378:1 379:1 380:1 381:1 382:1 383:1 384:1 385:1 386:1 387:1,21 388:1 389:1 390:1 391:1 392:1 393:1 394:1,24 395:1,2,14</p> <p>Waterhouse's 140:24</p> <p>ways 257:11</p> <p>wearing 336:3</p> <p>Webex 191:14</p> <p>Wednesday 329:19</p>
---	---	--	--	---

week 267:11 329:17, 25 330:3,5 375:21 388:6 weekend 329:20 weekly 330:4 weeks 302:21 303:7 307:8 378:18 wet 299:8 whatsoever 251:6 whichever 365:14 wholly 233:17 window 323:11 Winograd 3:7 wire 330:8 350:19 withdraw 35:4 134:9 withdrawn 19:11 34:16,21 38:14 57:23 59:15 62:16 63:7 65:4 93:18 98:13 119:7 133:20 141:25 148:8 157:3 160:5 163:18,19 180:24 181:19 191:11 195:16,18 201:19 203:25 220:11 232:6, 19 382:7 386:5 witness' 36:2 156:3 word 68:23 76:7 146:13 293:21 307:6 391:2 worded 104:10 words 79:5 342:16 346:10 348:7 363:8 work 113:8 204:22 219:23 233:18 291:8 299:5 346:25 372:19 worked 116:7,12 237:8 259:12 290:15 309:21 370:12 working 90:22 147:13 207:19 219:18 291:13 292:24 299:8 342:25 381:19 works 269:9	worried 241:22 246:12 worry 215:18 wrapping 293:3 write 187:6 write-up 278:12 writes 174:20 328:21 329:5 writing 67:13 75:5 79:11 273:12 316:17 341:18 written 15:9 83:17,20 186:3 195:9 323:20, 25 wrong 77:3,4 133:18 138:20,24 215:16 374:6 wrote 313:15,17 314:5,6,9 <hr/> Y <hr/> y'all 139:23 395:4 year 18:14,16,20,22 19:23 20:6,12 23:13, 14,15 27:24 30:19 36:23 38:15 59:3,5 68:11 80:9 84:23 85:3 87:3 90:12 93:5, 9 94:10,22 95:6,10, 14 100:7 103:14 104:6 131:4 145:10 160:7 161:4,7,17 162:25 166:6 168:14 169:2,4,6 170:12 220:19 221:21 223:16,18 224:13,15 244:14 265:3 286:21 326:11 334:15 348:17 381:24 382:10 383:20 year-end 222:4 244:10,14 262:7 362:16 year-ended 263:24 yearly 170:15 years 18:23 62:13,22 86:18 87:17 89:16	91:10 115:10 123:23 231:11 257:10 285:22 286:4,17,25 289:25 320:9 333:24 334:23 335:7 373:7,8 379:23 years-plus 89:18 yellow 178:8 yesterday 8:2 66:13 140:10 322:11 York 3:10 4:21 8:23 281:16 you-all 329:2 <hr/> Z <hr/> zeros 286:15 Ziehl 3:8 9:5 10:21 72:10 zoom 3:3 191:14 309:15 313:11 323:23 324:2,4,9
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EXHIBIT 106



2515 McKinney Avenue, 11th Floor
Dallas, Texas 75201
972.934.4700
www.NexBank.com



Date 12/29/17 Page 1
Primary Account [REDACTED]
Enclosures

Highland Capital Management LP
300 Crescent Court Suite 700
Dallas TX 75201

NexBank's Privacy Notice, which has not changed, is available on our website at www.NexBank.com/files/privacynotice.pdf. If you would like a copy of our Privacy Notice mailed to you, please call us at 972-934-4700.

Checking Account/s

Account Type: Highland Capital Management LP

Analysis Checking w/ Interest
Account Number

Statement Dates 12/01/17 thru 12/31/17

[REDACTED]

Deposits and Additions

Date	Description	Amount
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
12/08	INCOMING WIRE JAMES D DONDERO	677,500.75

MEMBER FDIC

NOTICE: SEE LAST PAGE FOR IMPORTANT INFORMATION

Payments received at the address indicated on this statement by 3:00 pm. Central Standard Time each banking day will be credited as of that date.



2515 McKinney Avenue, 11th Floor
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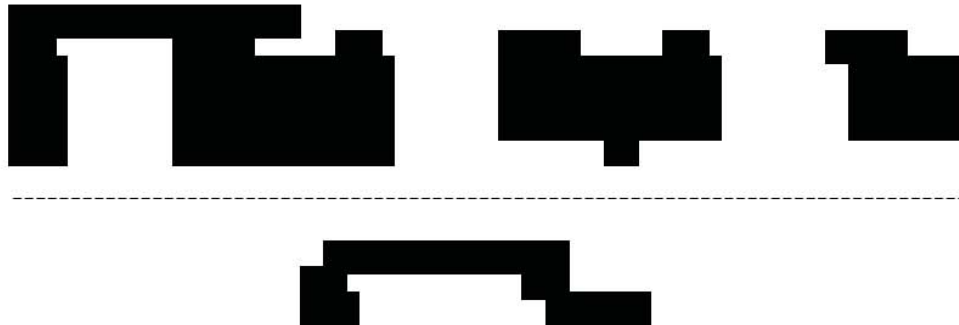


Date 12/29/17
Primary Account
Enclosures

Page 3

Analysis Checking w/ Interest

(Continued)



End of Statement

MEMBER FDIC

NOTICE: SEE LAST PAGE FOR IMPORTANT INFORMATION

Payments received at the address indicated on this statement by 3:00 pm, Central Standard Time each banking day will be credited as of that date.

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D-CNL003544
Appx. 02182

OUTSTANDING CHECKS				RECONCILIATION INSTRUCTIONS			
Reconciliation of Account				Date _____			
CHECKS WRITTEN BUT NOT PAID				<p>Please examine this statement and items at once and refer any exceptions immediately.</p> <p>Sort your checks numerically or by date issued.</p> <p>Mark off in your checkbook each of your checks paid by the bank and list the numbers and amounts of those not paid in the space provided at the left. Include any checks still not paid from previous statements.</p> <p>Subtract from your checkbook balance any SERVICE CHARGE (S.C.) or bank charge appearing on this statement.</p> <p>Reconcile your statement in the space provided below.</p>			
NUMBER		AMOUNT					
				Add deposits not credited by bank (if any)			
				TOTAL			
Total of Checks not paid				Subtract total of checks not paid			
THIS AMOUNT SHOULD EQUAL YOUR CHECKBOOK BALANCE->							
Any Charge for Imprinted Checks Includes State Sales Tax Computed at the Current Rate, When Applicable Notice: The Annual Percentage Rate and Daily Periodic Rate may vary.							
EXPLANATION OF BALANCE ON WHICH THE INTEREST CHARGE IS COMPUTED							
We figure the interest charge on your account by applying the periodic rate to the "daily balance" of your account for each day in the billing cycle. To get the "daily balance" we take the beginning balance of your account each day, add any new advances/fees, and subtract any unpaid interest or other finance charges and any payments or credits. This gives us the daily balance.							
WHAT TO DO IF YOU THINK YOU FIND A MISTAKE ON YOUR STATEMENT							
If you think there is an error on your statement, write to us at: NexBank 2515 McKinney Avenue, 11th Floor Dallas, Texas 75201 You may also contact us on the Web: www.nexbank.com In your letter, give us the following information:							
<ul style="list-style-type: none">• Account Information: Your name and account number.• Dollar Amount: The dollar amount of the suspected error.• Description of Problem: If you think there is an error on your bill, describe what you believe is wrong and why you believe it is a mistake.							
You must contact us within 60 days after the error appeared on your statement. You must notify us of any potential errors in writing or electronically. You may call us, but if you do we are not required to investigate any potential errors and you may have to pay the amount in question. While we investigate whether or not there has been an error, the following are true:							
<ul style="list-style-type: none">• We cannot try to collect the amount in question, or report you as delinquent on that amount.• The charge in question may remain on your statement, and we may continue to charge you interest on that amount. But, if we determine that we made a mistake, you will not have to pay the amount in question or any interest or other fees related to that amount.• While you do not have to pay the amount in question, you are responsible for the remainder of your balance.• We can apply any unpaid amount against your credit limit.							
IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS							
In Case of Errors or Questions About Your Electronic Transfers, Telephone us at 972.934.4700 or Write us at NexBank, 2515 McKinney Avenue, 11th Floor, Dallas, Texas 75201 as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.							
<ol style="list-style-type: none">(1) Tell us your name and account number (if any).(2) Describe the error or transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.(3) Tell us the dollar amount of the suspected error.							
We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will credit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.							

EXHIBIT 107

Page 1 of 10

Primary Account: [REDACTED]

Beginning December 1, 2018 - Ending December 31, 2018

31



21 HIGHLAND CAPITAL MANAGEMENT LP
MASTER OPERATING ACCOUNT
300 CRESCENT CT STE 700
DALLAS TX 75201-7849

Your BBVA Compass Account(s)

Please see important message regarding your
TREASURY MANAGEMENT ANALYSIS CHECKING
account

Contacting Us

Available by phone 24/7

Phone 1-800-266-7277

Online bbvacompass.com

Write BBVA Compass
Customer Service
P.O. Box 10566
Birmingham, AL 35296

Summary of Accounts

Deposit Accounts/ Other Products

Account	Account number	Ending balance last statement	Ending balance this statement
TREASURY MANAGEMENT ANALYSIS CHECKING	[REDACTED]	[REDACTED]	[REDACTED]
Total Deposit Accounts		[REDACTED]	[REDACTED]

Page 2 of 10
Primary Account: [REDACTED]
Beginning December 1, 2018 - Ending December 31, 2018

BBVA Compass

31

TREASURY MANAGEMENT ANALYSIS CHECKING

Account Number: [REDACTED]

Account Information

Change In Terms

The following fee changes will go into effect February 1, 2019:

RDI Fax Notification - \$10.00; Re-Run Deposited Items - \$12.00; Outgoing Wire Transfer with Notification - \$32.00; Return Items Fax Report (per day) for ACH Origination Services through File Transfer Services / Compass e-Transmit - \$7.50; ACH EDI Information Reporting Services per item - \$1.00; Wholesale Lockbox Fax Summary - \$125.00. Please call your regional BRS team with questions regarding these changes.

Activity Summary

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Deposits and Other Credits

Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]

Primary Account: [REDACTED]

31

[illegible]

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D-CNL003548

Appx. 02187

[illegible]

Withdrawals and Other Debits

Date *	Check/ Serial #	Description	Withdrawals/ Debits
01/01/2025	1001	Initial deposit	1000.00
01/05/2025	1002	Withdrawal	50.00
01/10/2025	1003	Deposit	250.00
01/15/2025	1004	Withdrawal	75.00

[illegible]

[illegible]

[illegible]

Page 8 of 10

Primary Account: [REDACTED]

Beginning December 1, 2018 - Ending December 31, 2018

31

[illegible]

Page 9 of 10
Primary Account: [REDACTED]
Beginning December 1, 2018 - Ending December 31, 2018



31

[REDACTED]									
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]									
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]									

31

Step 1

- Enter all checks, deposits, and other automated teller card (ATM) transactions in your register.
- Record all automated deductions, debit card transactions and electronic bill payments.
- Record and deduct service charges, check printing charges, or other bank fees.
- If you have an interest bearing account, add any interest earned shown on this statement.

Step 2

- If applicable, sort checks in numerical order and mark in your register each check or other transaction that is listed on this statement.

Step 3

- List any deposits or credits you have made that do not appear on this statement (see space provided below).

Step 4

- List any checks you have written, debit card transactions, electronic payments and other deductions that do not appear on this statement (see space provided below).

Date/Description	Amount
Step 3 Total	\$

Date/Description	Check #	Amount
	Step 4 Total	\$

Step 5	•Enter the "current balance" shown on this statement		
	•Add total from Step 3		
	•Subtotal		
	•Subtract total from Step 4		
	•This balance should equal your register balance		
	If it does not agree, see steps below	\$	

- Check all your addition and subtraction above in your register.
- Make sure you remembered to subtract service charges listed on this statement and add any interest earned to your register.
- Amounts of deposits and withdrawals on this statement should match your register entries.
- If you have questions or need assistance, please refer to the phone number on the front of this statement.

BBVA Compass is a trade name of Compass Bank, a member of the BBVA Group.
Compass Bank. Member FDIC.

EXHIBIT 108

Page 1 of 11
Primary Account: [REDACTED]
Beginning February 1, 2019 - Ending February 28, 2019

28



21 HIGHLAND CAPITAL MANAGEMENT LP
MASTER OPERATING ACCOUNT
300 CRESCENT CT STE 700
DALLAS TX 75201-7849

Contacting Us

Available by phone 24/7

Phone 1-800-266-7277

Online bbvacompass.com

Write BBVA Compass
Customer Service
P.O. Box 10566
Birmingham, AL 35296

Summary of Accounts

Deposit Accounts/ Other Products

Account	Account number	Ending balance last statement	Ending balance this statement
TREASURY MANAGEMENT ANALYSIS CHECKING	[REDACTED]	[REDACTED]	[REDACTED]
Total Deposit Accounts		[REDACTED]	[REDACTED]



TREASURY MANAGEMENT ANALYSIS CHECKING

Account Number: [REDACTED] - HIGHLAND CAPITAL MANAGEMENT LP

Activity Summary

_____	_____
_____	_____
_____	_____
_____	_____

Deposits and Other Credits

Date *	Check/ Serial #	Description	Deposits/ Credits
01/01/2025	1001	DEPOSIT	1000.00
01/02/2025	1002	DEPOSIT	1000.00
01/03/2025	1003	DEPOSIT	1000.00
01/04/2025	1004	DEPOSIT	1000.00
01/05/2025	1005	DEPOSIT	1000.00
01/06/2025	1006	DEPOSIT	1000.00
01/07/2025	1007	DEPOSIT	1000.00
01/08/2025	1008	DEPOSIT	1000.00
01/09/2025	1009	DEPOSIT	1000.00
01/10/2025	1010	DEPOSIT	1000.00
01/11/2025	1011	DEPOSIT	1000.00
01/12/2025	1012	DEPOSIT	1000.00
01/13/2025	1013	DEPOSIT	1000.00
01/14/2025	1014	DEPOSIT	1000.00
01/15/2025	1015	DEPOSIT	1000.00
01/16/2025	1016	DEPOSIT	1000.00
01/17/2025	1017	DEPOSIT	1000.00
01/18/2025	1018	DEPOSIT	1000.00
01/19/2025	1019	DEPOSIT	1000.00
01/20/2025	1020	DEPOSIT	1000.00



Date *	Check/ Serial #	Description	Deposits/ Credits
01/01/2025	1001	DEPOSIT	1000.00
01/02/2025	1002	DEPOSIT	1000.00
01/03/2025	1003	DEPOSIT	1000.00
01/04/2025	1004	DEPOSIT	1000.00
01/05/2025	1005	DEPOSIT	1000.00
01/06/2025	1006	DEPOSIT	1000.00
01/07/2025	1007	DEPOSIT	1000.00
01/08/2025	1008	DEPOSIT	1000.00
01/09/2025	1009	DEPOSIT	1000.00
01/10/2025	1010	DEPOSIT	1000.00
01/11/2025	1011	DEPOSIT	1000.00
01/12/2025	1012	DEPOSIT	1000.00
01/13/2025	1013	DEPOSIT	1000.00
01/14/2025	1014	DEPOSIT	1000.00
01/15/2025	1015	DEPOSIT	1000.00
01/16/2025	1016	DEPOSIT	1000.00
01/17/2025	1017	DEPOSIT	1000.00
01/18/2025	1018	DEPOSIT	1000.00
01/19/2025	1019	DEPOSIT	1000.00
01/20/2025	1020	DEPOSIT	1000.00
01/21/2025	1021	DEPOSIT	1000.00
01/22/2025	1022	DEPOSIT	1000.00
01/23/2025	1023	DEPOSIT	1000.00
01/24/2025	1024	DEPOSIT	1000.00
01/25/2025	1025	DEPOSIT	1000.00
01/26/2025	1026	DEPOSIT	1000.00
01/27/2025	1027	DEPOSIT	1000.00
01/28/2025	1028	DEPOSIT	1000.00
01/29/2025	1029	DEPOSIT	1000.00
01/30/2025	1030	DEPOSIT	1000.00
01/31/2025	1031	DEPOSIT	1000.00

Page 4 of 11
Primary Account: [REDACTED]
Beginning February 1, 2019 - Ending February 28, 2019

28

BBVA Compass

[illegible]

HIGHLY CONFIDENTIAL

D-CNL003493

Appx. 02199

28

[illegible]

Withdrawals and Other Debits

Date *	Check/ Serial #	Description	Withdrawals/ Debits
01/01/2018	1001	Initial deposit	1000.00
01/02/2018	1002	Withdrawal	50.00
01/03/2018	1003	Deposit	200.00
01/04/2018	1004	Withdrawal	75.00
01/05/2018	1005	Deposit	150.00
01/06/2018	1006	Withdrawal	30.00
01/07/2018	1007	Deposit	120.00
01/08/2018	1008	Withdrawal	60.00
01/09/2018	1009	Deposit	90.00
01/10/2018	1010	Withdrawal	40.00

[illegible]

[illegible]

[illegible]

[illegible]

Page 10 of 11
Primary Account: [REDACTED]
Beginning February 1, 2019 - Ending February 28, 2019

28



Year	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Population	10.0	10.1	10.2	10.3	10.4	10.5	10.6	10.7	10.8	10.9	11.0	11.1	11.2	11.3
GDP	100	105	110	115	120	125	130	135	140	145	150	155	160	165
Urbanization	55	58	61	64	67	70	73	76	79	82	85	88	91	94
Life expectancy	72	74	76	78	80	82	84	86	88	90	92	94	96	98
Healthcare expenditure	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10.0	10.5	11.0	11.5
Education expenditure	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.6	4.8	5.0	5.2	5.4	5.6
Infrastructure investment	2.0	2.2	2.4	2.6	2.8	3.0	3.2	3.4	3.6	3.8	4.0	4.2	4.4	4.6
Renewable energy investment	0.5	0.6	0.7	0.8	0.9	1.0	1.1	1.2	1.3	1.4	1.5	1.6	1.7	1.8
Government debt	40	45	50	55	60	65	70	75	80	85	90	95	100	105
Foreign direct investment	15	18	21	24	27	30	33	36	39	42	45	48	51	54
Trade openness	60	62	64	66	68	70	72	74	76	78	80	82	84	86
Corruption index	30	32	34	36	38	40	42	44	46	48	50	52	54	56
Environmental quality	50	52	54	56	58	60	62	64	66	68	70	72	74	76
Gender inequality	40	38	36	34	32	30	28	26	24	22	20	18	16	14
Income inequality	35	36	37	38	39	40	41	42	43	44	45	46	47	48
Climate change impact	10	12	14	16	18	20	22	24	26	28	30	32	34	36

EXHIBIT 109

Page 1 of 10
Primary Account: [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019

31



21 HIGHLAND CAPITAL MANAGEMENT LP
MASTER OPERATING ACCOUNT
300 CRESCENT CT STE 700
DALLAS TX 75201-7849

Contacting Us

Available by phone 24/7

Phone 1-800-266-7277

Online bbvacompass.com

Write BBVA Compass
Customer Service
P.O. Box 10566
Birmingham, AL 35296

Summary of Accounts

Deposit Accounts/ Other Products

Account	Account number	Ending balance last statement	Ending balance this statement
TREASURY MANAGEMENT ANALYSIS CHECKING	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Page 2 of 10
Primary Account [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019

31



TREASURY MANAGEMENT ANALYSIS CHECKING

Account Number: [REDACTED]

Activity Summary

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Deposits and Other Credits

Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
3/13		INCOMING WIRE W/ADVICE REF 20190313F2QCZ60C00320903131633FT01 ORG JAMES D DONDERO	\$5,000,000.00
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]



Date *	Check/ Serial #	Description		Deposits/ Credits
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED]		[REDACTED]

Withdrawals and Other Debits

[illegible]

Page 4 of 10
Primary Account: [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019

31

[illegible]

[illegible]

Page 6 of 10
Primary Account: [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019

31

[illegible]

[illegible]

[illegible]

Page 9 of 10
Primary Account: [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019



Date *	Check/ Serial #	Description	Withdrawals/ Debits		
			vices and/or activity from the prior statement cycle.		

Page 10 of 10

Primary Account: [REDACTED]
Beginning March 1, 2019 - Ending March 31, 2019

31

**How to Balance Your Account**

- Step 1**
- Enter all checks, deposits, and other automated teller card (ATM) transactions in your register.
 - Record all automated deductions, debit card transactions and electronic bill payments.
 - Record and deduct service charges, check printing charges, or other bank fees.
 - If you have an interest bearing account, add any interest earned shown on this statement.
- Step 2**
- If applicable, sort checks in numerical order and mark in your register each check or other transaction that is listed on this statement.
- Step 3**
- List any deposits or credits you have made that do not appear on this statement (see space provided below).
- Step 4**
- List any checks you have written, debit card transactions, electronic payments and other deductions that do not appear on this statement (see space provided below).

Date/Description	Amount
Step 3 Total	\$

Date/Description	Check #	Amount
Step 4 Total		\$

Balancing Your Register to this Statement

Step 5	• Enter the "current balance" shown on this statement	
	• Add total from Step 3	
	• Subtotal	
	• Subtract total from Step 4	
	• This balance should equal your register balance	
	If it does not agree, see steps below	\$

If your account does not balance, review the following:

- Check all your addition and subtraction above in your register.
- Make sure you remembered to subtract service charges listed on this statement and add any interest earned to your register.
- Amounts of deposits and withdrawals on this statement should match your register entries.
- If you have questions or need assistance, please refer to the phone number on the front of this statement.

Change of Address

Please call us at the telephone number listed on the front of this statement to tell us about a change of address.

Electronic Transfers *(for consumer accounts only)*

In case of errors or questions about your Electronic Transfers, write to BBVA Compass Bank, Operations Compliance Support, P.O. Box 10566, Birmingham, AL 35296. Or simply call your local customer service number printed on the front of this statement. Call or write as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent the first statement on which the error or problem appeared.

- Tell us your name and account number (if any).
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days (20 on claims on accounts opened less than 30 calendar days) to do this, we will credit your account for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation.

*For Non-Consumer Account customers, please refer to your current Non-Consumer Account Agreement for details regarding Electronic Fund Transfers.

Overdraft Protection

Calculation of Interest Charge and Balance Subject to Interest Rate. The interest charge is computed using your annual percentage rate divided by 365 or, in the case of a leap year, 366, which gives you the "Applicable Rate." Although we calculate the interest charge by applying the Applicable Rate to each daily balance, the interest charge can also be calculated by multiplying the Applicable Rate by the "average daily balance" (Balance Subject to Interest Rate) shown on this statement, then multiplying that sum by the number of days in the billing cycle. To get the "Balance Subject to Interest Rate" shown on this statement we take the beginning balance of your account less any unpaid finance charges each day, add any new advances or debits, and subtract any payments or credits. This gives us the daily balance. Then we add all the daily balances for the billing cycle and divide by the number of days in the billing cycle. This gives us the "average daily balance" shown on the statement as "Balance Subject to Interest Rate".

Payments. Payments to your overdraft protection loan account made through our tellers or deposited at our automated teller machines (ATMs) Monday through Friday before the posted cut-off time will be posted to your account on the date they are accepted. Otherwise, they will be posted on the next business day. Payments made through our ATMs via a funds transfer will be posted on the date they are received or on the next business day if made after 6pm CT (6pm MT for Arizona accounts and 6pm PT for California accounts) Monday through Friday or any time Saturday, Sunday or bank holidays. BBVA Compass Bank business days are Monday through Friday, excluding holidays.

In Case of Errors or Questions About Your Statement (Overdraft Protection Only)

If you think your statement is wrong, or if you need more information about a transaction on your statement, write your issue on a separate document and send it to Bankcard Center, P.O. Box 2210, Decatur, AL 35699-0001. Telephone inquiries may be made by calling your local BBVA Compass branch listed on the front of this statement to speak with a Customer Service Representative. Please note: a telephone inquiry will not preserve your rights under federal law. We must hear from you no later than sixty (60) days after we sent you the first statement on which the error or problem appeared.

- Tell us your name and account number (if any).
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or what you need more information.
- Tell us the dollar amount of the suspected error.

You can stop the automatic deduction of the Minimum Payment from your checking account if you think your statement is wrong. To stop the payment, your letter must reach us three (3) business days before the automatic deduction is scheduled to occur.

Reporting Other Problems

Please review your statement carefully. It is essential that any account errors or any improper transactions on your account be reported to us as soon as reasonably possible. If you fail to notify us of any suspected problems, errors or unauthorized transactions within the time periods specified in the deposit account agreement, we are not liable to you for any loss related to the problem, error or unauthorized transaction.

BBVA Compass is a trade name of Compass Bank, a member of the BBVA Group. Compass Bank, Member FDIC.

EXHIBIT 110

Page 1 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



21 HIGHLAND CAPITAL MANAGEMENT LP
MASTER OPERATING ACCOUNT
300 CRESCENT CT STE 700
DALLAS TX 75201-7849

Contacting Us

Available by phone 24/7

Phone 1-800-266-7277

Online bbvacompass.com

Write BBVA Compass
Customer Service
P.O. Box 10566
Birmingham, AL 35296

Summary of Accounts

Deposit Accounts/ Other Products

Account	Account number	Ending balance last statement	Ending balance this statement
TREASURY MANAGEMENT ANALYSIS CHECKING	[REDACTED]	[REDACTED]	[REDACTED]
Total Deposit Accounts		[REDACTED]	[REDACTED]

Page 2 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019



31

TREASURY MANAGEMENT ANALYSIS CHECKING

Account Number: [REDACTED]

Activity Summary

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Deposits and Other Credits

Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]
[REDACTED]		[REDACTED]	[REDACTED]

Page 3 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



Date *	Check/ Serial #	Description	Deposits/ Credits
01/01/2025	1001	Initial deposit	1000.00
01/02/2025	1002	Transfer from Savings	500.00
01/03/2025	1003	Deposit	250.00
01/04/2025	1004	Transfer to Checking	750.00
01/05/2025	1005	Deposit	300.00
01/06/2025	1006	Transfer from Savings	400.00
01/07/2025	1007	Deposit	150.00
01/08/2025	1008	Transfer to Checking	600.00
01/09/2025	1009	Deposit	200.00
01/10/2025	1010	Transfer from Savings	550.00
01/11/2025	1011	Deposit	180.00
01/12/2025	1012	Transfer to Checking	650.00
02/01/2025	1013	Deposit	220.00
02/02/2025	1014	Transfer from Savings	450.00
02/03/2025	1015	Deposit	160.00
02/04/2025	1016	Transfer to Checking	700.00
02/05/2025	1017	Deposit	280.00
02/06/2025	1018	Transfer from Savings	480.00
02/07/2025	1019	Deposit	190.00
02/08/2025	1020	Transfer to Checking	680.00
02/09/2025	1021	Deposit	210.00
02/10/2025	1022	Transfer from Savings	520.00
02/11/2025	1023	Deposit	170.00
02/12/2025	1024	Transfer to Checking	720.00
03/01/2025	1025	Deposit	230.00
03/02/2025	1026	Transfer from Savings	470.00
03/03/2025	1027	Deposit	155.00
03/04/2025	1028	Transfer to Checking	695.00
03/05/2025	1029	Deposit	275.00
03/06/2025	1030	Transfer from Savings	495.00
03/07/2025	1031	Deposit	185.00
03/08/2025	1032	Transfer to Checking	715.00
03/09/2025	1033	Deposit	215.00
03/10/2025	1034	Transfer from Savings	545.00
03/11/2025	1035	Deposit	165.00
03/12/2025	1036	Transfer to Checking	735.00
04/01/2025	1037	Deposit	245.00
04/02/2025	1038	Transfer from Savings	465.00
04/03/2025	1039	Deposit	150.00
04/04/2025	1040	Transfer to Checking	745.00
04/05/2025	1041	Deposit	290.00
04/06/2025	1042	Transfer from Savings	440.00
04/07/2025	1043	Deposit	175.00
04/08/2025	1044	Transfer to Checking	755.00
04/09/2025	1045	Deposit	225.00
04/10/2025	1046	Transfer from Savings	510.00
04/11/2025	1047	Deposit	195.00
04/12/2025	1048	Transfer to Checking	765.00
05/01/2025	1049	Deposit	255.00
05/02/2025	1050	Transfer from Savings	455.00
05/03/2025	1051	Deposit	160.00
05/04/2025	1052	Transfer to Checking	775.00
05/05/2025	1053	Deposit	285.00
05/06/2025	1054	Transfer from Savings	475.00
05/07/2025	1055	Deposit	180.00
05/08/2025	1056	Transfer to Checking	785.00
05/09/2025	1057	Deposit	235.00
05/10/2025	1058	Transfer from Savings	530.00
05/11/2025	1059	Deposit	170.00
05/12/2025	1060	Transfer to Checking	795.00
06/01/2025	1061	Deposit	260.00
06/02/2025	1062	Transfer from Savings	445.00
06/03/2025	1063	Deposit	155.00
06/04/2025	1064	Transfer to Checking	805.00
06/05/2025	1065	Deposit	295.00
06/06/2025	1066	Transfer from Savings	435.00
06/07/2025	1067	Deposit	170.00
06/08/2025	1068	Transfer to Checking	815.00
06/09/2025	1069	Deposit	240.00
06/10/2025	1070	Transfer from Savings	520.00
06/11/2025	1071	Deposit	185.00
06/12/2025	1072	Transfer to Checking	825.00
07/01/2025	1073	Deposit	270.00
07/02/2025	1074	Transfer from Savings	430.00
07/03/2025	1075	Deposit	160.00
07/04/2025	1076	Transfer to Checking	835.00
07/05/2025	1077	Deposit	300.00
07/06/2025	1078	Transfer from Savings	420.00
07/07/2025	1079	Deposit	175.00
07/08/2025	1080	Transfer to Checking	845.00
07/09/2025	1081	Deposit	250.00
07/10/2025	1082	Transfer from Savings	510.00
07/11/2025	1083	Deposit	190.00
07/12/2025	1084	Transfer to Checking	855.00
08/01/2025	1085	Deposit	280.00
08/02/2025	1086	Transfer from Savings	415.00
08/03/2025	1087	Deposit	165.00
08/04/2025	1088	Transfer to Checking	865.00
08/05/2025	1089	Deposit	290.00
08/06/2025	1090	Transfer from Savings	405.00
08/07/2025	1091	Deposit	175.00
08/08/2025	1092	Transfer to Checking	875.00
08/09/2025	1093	Deposit	240.00
08/10/2025	1094	Transfer from Savings	505.00
08/11/2025	1095	Deposit	185.00
08/12/2025	1096	Transfer to Checking	885.00
09/01/2025	1097	Deposit	270.00
09/02/2025	1098	Transfer from Savings	405.00
09/03/2025	1099	Deposit	165.00
09/04/2025	1100	Transfer to Checking	895.00
09/05/2025	1101	Deposit	300.00
09/06/2025	1102	Transfer from Savings	395.00
09/07/2025	1103	Deposit	175.00
09/08/2025	1104	Transfer to Checking	905.00
09/09/2025	1105	Deposit	250.00
09/10/2025	1106	Transfer from Savings	495.00
09/11/2025	1107	Deposit	190.00
09/12/2025	1108	Transfer to Checking	915.00
10/01/2025	1109	Deposit	280.00
10/02/2025	1110	Transfer from Savings	385.00
10/03/2025	1111	Deposit	165.00
10/04/2025	1112	Transfer to Checking	925.00
10/05/2025	1113	Deposit	290.00
10/06/2025	1114	Transfer from Savings	375.00
10/07/2025	1115	Deposit	175.00
10/08/2025	1116	Transfer to Checking	935.00
10/09/2025	1117	Deposit	240.00
10/10/2025	1118	Transfer from Savings	485.00
10/11/2025	1119	Deposit	185.00
10/12/2025	1120	Transfer to Checking	945.00
11/01/2025	1121	Deposit	270.00
11/02/2025	1122	Transfer from Savings	375.00
11/03/2025	1123	Deposit	165.00
11/04/2025	1124	Transfer to Checking	955.00
11/05/2025	1125	Deposit	290.00
11/06/2025	1126	Transfer from Savings	365.00
11/07/2025	1127	Deposit	175.00
11/08/2025	1128	Transfer to Checking	965.00
11/09/2025	1129	Deposit	250.00
11/10/2025	1130	Transfer from Savings	475.00
11/11/2025	1131	Deposit	190.00
11/12/2025	1132	Transfer to Checking	975.00
12/01/2025	1133	Deposit	280.00
12/02/2025	1134	Transfer from Savings	365.00
12/03/2025	1135	Deposit	165.00
12/04/2025	1136	Transfer to Checking	985.00
12/05/2025	1137	Deposit	290.00
12/06/2025	1138	Transfer from Savings	355.00
12/07/2025	1139	Deposit	175.00
12/08/2025	1140	Transfer to Checking	995.00
12/09/2025	1141	Deposit	240.00
12/10/2025	1142	Transfer from Savings	465.00
12/11/2025	1143	Deposit	185.00
12/12/2025	1144	Transfer to Checking	1005.00

Page 4 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5/2		INCOMING WIRE W/ADVICE REF 20190502F2QCZ60C00351205021554FT03 ORG JAMES D DONDERO	\$2,400,000.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Page 5 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5/3		INCOMING WIRE W/ADVICE REF 20190503F2QCZ60C00402305031602FT03 ORG JAMES D DONDERO	\$4,400,000.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5/7		INCOMING WIRE W/ADVICE REF 20190507F2QCZ60C00123805071057FT03 ORG JAMES D DONDERO	\$600,000.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Page 6 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



Date *	Check/ Serial #	Description	Deposits/ Credits
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
5/23		INCOMING WIRE W/ADVICE REF 20190523F2QCZ60C00127205231045FT03 ORG JAMES D DONDERO	\$1,500,000.00
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

Page 7 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31



Date *	Check/ Serial #	Description		Deposits/ Credits
[REDACTED]		[REDACTED] [REDACTED]		[REDACTED]
[REDACTED] [REDACTED]				

Withdrawals and Other Debits

[illegible]

[illegible]

Page 9 of 13
Primary Account: [REDACTED]
Beginning May 1, 2019 - Ending May 31, 2019

31

[illegible]

[illegible]

[illegible]

[illegible]

Page 13 of 13
 Primary Account: [REDACTED]
 Beginning May 1, 2019 - Ending May 31, 2019

31



How to Balance Your Account

- Step 1**
- Enter all checks, deposits, and other automated teller card (ATM) transactions in your register.
 - Record all automated deductions, debit card transactions and electronic bill payments.
 - Record and deduct service charges, check printing charges, or other bank fees.
 - If you have an interest bearing account, add any interest earned shown on this statement.
- Step 2**
- If applicable, sort checks in numerical order and mark in your register each check or other transaction that is listed on this statement.
- Step 3**
- List any deposits or credits you have made that do not appear on this statement (see space provided below).
- Step 4**
- List any checks you have written, debit card transactions, electronic payments and other deductions that do not appear on this statement (see space provided below).

Date/Description	Amount
Step 3 Total	\$

Date/Description	Check #	Amount
Step 4 Total		\$

Balancing Your Register to this Statement

Step 5	• Enter the "current balance" shown on this statement	
	• Add total from Step 3	
	• Subtotal	
	• Subtract total from Step 4	
	• This balance should equal your register balance	
	If it does not agree, see steps below	\$

If your account does not balance, review the following:

- Check all your addition and subtraction above in your register.
- Make sure you remembered to subtract service charges listed on this statement and add any interest earned to your register.
- Amounts of deposits and withdrawals on this statement should match your register entries.
- If you have questions or need assistance, please refer to the phone number on the front of this statement.

Change of Address

Please call us at the telephone number listed on the front of this statement to tell us about a change of address.

Electronic Transfers *(for consumer accounts only)*

In case of errors or questions about your Electronic Transfers, write to BBVA Compass Bank, Operations Compliance Support, P.O. Box 10566, Birmingham, AL 35296. Or simply call your local customer service number printed on the front of this statement. Call or write as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent the first statement on which the error or problem appeared.

- Tell us your name and account number (if any).
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days (20 on claims on accounts opened less than 30 calendar days) to do this, we will credit your account for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation.

*For Non-Consumer Account customers, please refer to your current Non-Consumer Account Agreement for details regarding Electronic Fund Transfers.

Overdraft Protection

Calculation of Interest Charge and Balance Subject to Interest Rate. The interest charge is computed using your annual percentage rate divided by 365 or, in the case of a leap year, 366, which gives you the "Applicable Rate." Although we calculate the interest charge by applying the Applicable Rate to each daily balance, the interest charge can also be calculated by multiplying the Applicable Rate by the "average daily balance" (Balance Subject to Interest Rate) shown on this statement, then multiplying that sum by the number of days in the billing cycle. To get the "Balance Subject to Interest Rate" shown on this statement we take the beginning balance of your account less any unpaid finance charges each day, add any new advances or debits, and subtract any payments or credits. This gives us the daily balance. Then we add all the daily balances for the billing cycle and divide by the number of days in the billing cycle. This gives us the "average daily balance" shown on the statement as "Balance Subject to Interest Rate". Payments. Payments to your overdraft protection loan account made through our tellers or deposited at our automated teller machines (ATMs) Monday through Friday before the posted cut-off time will be posted to your account on the date they are accepted. Otherwise, they will be posted on the next business day. Payments made through our ATMs via a funds transfer will be posted on the date they are received or on the next business day if made after 6pm CT (6pm MT for Arizona accounts and 6pm PT for California accounts) Monday through Friday or any time Saturday, Sunday or bank holidays. BBVA Compass Bank business days are Monday through Friday, excluding holidays.

In Case of Errors or Questions About Your Statement (Overdraft Protection Only)

If you think your statement is wrong, or if you need more information about a transaction on your statement, write your issue on a separate document and send it to Bankcard Center, P.O. Box 2210, Decatur, AL 35699-0001. Telephone inquiries may be made by calling your local BBVA Compass branch listed on the front of this statement to speak with a Customer Service Representative. Please note: a telephone inquiry will not preserve your rights under federal law. We must hear from you no later than sixty (60) days after we sent you the first statement on which the error or problem appeared.

- Tell us your name and account number (if any).
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or what you need more information.
- Tell us the dollar amount of the suspected error.

You can stop the automatic deduction of the Minimum Payment from your checking account if you think your statement is wrong. To stop the payment, your letter must reach us three (3) business days before the automatic deduction is scheduled to occur.

Reporting Other Problems

Please review your statement carefully. It is essential that any account errors or any improper transactions on your account be reported to us as soon as reasonably possible. If you fail to notify us of any suspected problems, errors or unauthorized transactions within the time periods specified in the deposit account agreement, we are not liable to you for any loss related to the problem, error or unauthorized transaction.

BBVA Compass is a trade name of Compass Bank, a member of the BBVA Group. Compass Bank, Member FDIC.